1939
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III

REPORT III

International Labour Conference

TWENTY-FIFTH SESSION
GENEVA, 1939

Recruiting, Placing and Conditions of Labour (Equality of Treatment) of Migrant Workers

Third Item on the Agenda

GENEVA
INTERNATIONAL LABOUR OFFICE
1939

INTERNATIONAL LABOUR OFFICE

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INTRODUCTION

At its Seventy-eighth Session (6 February 1937), the Governing Body of the International Labour Office placed on the Agenda of the Twenty-fourth Session (1938) of the International Labour Conference, for first discussion, the question of " the recruiting, placing and conditions of labour (equality of treatment) of migrant workers ". As a result of this decision the International Labour Office, in pursuance of the Standing Orders of the Conference, prepared a Grey Report containing an analysis of the law and practice on this subject in the various countries, a brief statement of bilateral agreements in this field, and a draft list of points on which it was suggested that the Governments should be consulted in preparation for a second discussion in 1939.

The Twenty-fourth Session of the Conference took this report as a basis of discussion and, after adopting a list of points for the consultation of Governments, decided to place the question on the Agenda of the Twenty-fifth (1939) Session for second discussion. The Office, therefore, prepared the Questionnaire required by the Standing Orders on the basis of the list of points adopted by the Conference and communicated this Questionnaire to the Governments in July 1938.

The present Report has been prepared after examination of the replies of the Governments to this Questionnaire. The replies themselves are reproduced in Chapter I; a general survey of the question in the light of the replies is given in Chapter II; the conclusions to which the International Labour Office has been led by this survey are contained in Chapter III in the form of a commentary on the proposals which follow and which the Office submits to the Twenty-fifth Session of the Conference as a basis of discussion, with a view to a final decision on the question on the Agenda.

In communicating the Questionnaire to Governments, the Office requested that replies might be forwarded in time to reach it not

later than 15 November 1938. At the time this Report was prepared (1 March 1939) 29 replies had been sent by the following Governments: Australia (Western Australia), Belgium, Canada (Dominion Government, Alberta, Manitoba, Ontario, Saskatchewan), China, Denmark, Egypt, Estonia, Finland, France, Great Britain, India, Iraq, Ireland, the Netherlands, New Zealand, Norway, Poland, Rumania, Siam, Spain, Sweden, Switzerland, Turkey, the Union of South Africa and the United States of America.

In the event of further replies being received by the Office they will be reproduced in a supplementary report.

Geneva, *March 1939.*

CHAPTER I

REPLIES OF THE GOVERNMENTS TO THE QUESTIONNAIRE

The Governments of the following countries did not reply to the Questionnaire in detail, but made general statements which are reproduced below.

CANADA

Dominion Government

The Immigration Branch of the Department of Mines and Resources of Canada states that it is difficult to reply *seriatim* to the various items of this Questionnaire because, while in theory a convention covering matters mentioned in the Questionnaire might be useful, it would appear that most of the inquiries have a direct bearing on a local and temporary transfer of labour, such as has been common in Europe for many years, but are not applicable to the permanent transfer of labour from a country of emigration to a country of immigration.

Some years ago Canada's general attitude was that of soliciting and otherwise encouraging immigration but in 1930 economic conditions resulted in regulations being passed under which all immigration from Continental Europe is shut off excepting that of farmers with capital, wives and unmarried children under eighteen joining family heads settled in Canada, and girls coming to be married to men established in Canada. Within the past two or three years the refugee movement has become an acute problem and especially has this been the case within the past six months.

In view of the action taken in certain European States in respect of unwanted minorities, it is felt that action looking to the adoption of any Convention which has to do with recruiting, placing and assistance to migrant workers and repatriation should be deferred for the present and that in existing circumstances it would not be possible to deal with immigration and repatriation problems other than by the direct methods which are now employed.

In the meantime, Canada continues to protect immigration as far as possible through the application of the federal Immigration Act and the practice which is followed of conducting an examination overseas. It may be added that there is a section of this Act (section 56) which reads as follows:

" Every person who causes or procures the publication or circulation, by advertisement or otherwise, in a country outside of Canada, of false representations as to the opportunities for employment in Canada, or as

to the state of the labour market in Canada, intended or adapted to encourage or induce, or to deter or prevent, the immigration into Canada of persons resident in such outside country, or who does anything in Canada for the purpose of causing or procuring the communication to any resident of such country of any such representations which are thereafter so published, circulated or communicated, shall be guilty of an offence against this Act, and liable on summary conviction before two justices of the peace, to a fine of not more than five hundred dollars, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment ".

Other sections of the Immigration Act of Canada relate to the protection of immigrants on board ship and on arrival in Canada.

Ontario

The Government of the Province of Ontario consider it desirable that the International Labour Conference should adopt a Draft Convention concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers.

The Government are, however, of the opinion that the general question of immigration in Canada falls within the legislative competence of the Parliament of Canada, the Immigration Act being a Dominion statute. They refrain therefore from expressing views on matters not within their jurisdiction.

Accordingly replies to the questions which follow are not being submitted.

Estonia

Estonia is not a country of immigration and emigration is insignificant. The Estonian Government, therefore, although it is in principle favourable to the adoption of international regulations on recruiting, placing and conditions of labour of migrant workers, does not consider that it can furnish replies to the detailed questions contained in the Questionnaire.

Great Britain

Some difficulty has been experienced in considering this Questionnaire, because it appears to presuppose the existence of conditions which do not obtain in countries like the United Kingdom.

The United Kingdom being a densely populated and highly industrialised country with a problem of unemployment of its own is not an " immigration " country and the extent to which it can admit foreigners for employment or work is necessarily very limited. Under the provisions of the Aliens Order which governs the admission of foreigners no foreigner seeking employment may be given leave to land unless he is in possession of a permit issued by the Ministry of Labour to his prospective employer. A large proportion of the permits issued are for short term periods and the foreigners are required to leave when they have completed their contracts (e.g. music hall artists). Foreigners so admitted cannot properly be described as " migrant " workers and by reason of the circumstances under which their services are obtained no additional safeguard to protect their interests are needed. It is the rule to demand from the employer a guarantee to repatriate, as a condition precedent to the issue of a permit.

The only group (excluding refugees who are referred to later) which has hitherto approximated to "migrant" workers consists of domestic servants of whom a number is admitted under permit in accordance with the procedure described above. Objection is not ordinarily raised to such persons remaining in the United Kingdom so long as they continue in resident private domestic service, and if on arrival they wish for any reason to leave the household which they have entered they are permitted to seek a situation in another household. Experience shows that they have little difficulty in obtaining suitable posts. The number who elect to take up permanent residence in the country has not hitherto been large and the majority appear to return voluntarily to their own country after two or three years' service.

It will be appreciated from this statement that the conditions obtaining in the United Kingdom are entirely different from those obtaining in other countries which seek to attract large bodies of workers for agricultural settlement or other development or which require workers for seasonal occupations, e.g. harvesting.

Any Convention which might be drafted to meet circumstances in such countries would appear to be inapplicable to the United Kingdom.

A further point which has to be borne in mind is that political conditions in many States in Europe have created large numbers of refugees and there are to-day many hundreds of thousands of persons who wish to emigrate from their own country on racial, political or religious grounds. The remaining States in Europe and indeed countries overseas are now faced with the serious problem threatened by the mass immigration of persons desirous of seeking new countries of settlement. The consequence is that most countries have felt obliged to adopt strict measures for regulating the admission of potential refugees, and the task of charitable organisations in assisting refugees to find new countries of settlement is made all the more difficult. It is not clear how the formulation of a Draft Convention will assist in the solution of this problem: on the contrary there is a grave danger that additional regulations on the subject of immigration may only hamper the task of organisations engaged in this humanitarian work. In this particular field there is clearly no scope for any arrangement by which the selection and care of emigrants should be made dependent on discussion between the country of immigration and the country of origin. Equally arrangements for the repatriation of refugees must be excluded.

In dealing with refugees the policy of His Majesty's Government has been to act in close co-operation with the voluntary organisations and the relaxation of ordinary rules governing the admission of foreigners is sympathetically considered, when it can be shown that a refugee can be advantageously found work in the country without detriment to the existing workers. Consent is also given to training schemes by means of which such organisations are able to emigrate refugees after a course of training in some suitable occupation. Flexibility of procedure is, however, essential for coping with a task of this magnitude and complexity and the adoption of any set rules embodied in a Draft Convention could not but fail to add to the difficulties already inherent in this work.

The treatment of refugees would appear to fall outside the scope of the survey now being made by the International Labour Office, and in so far as it concerns certain categories of refugees has been entrusted by the Assembly of the League to specially constituted organs. Nevertheless the subject has now become a worldwide problem and for many years it seems likely that it will play a predominating part in all ques-

tions affecting immigration and the movement of migrant workers. It would in the view of His Majesty's Government be very regrettable if any rules formed for the protection of migrant workers in special conditions obtaining in certain places were to be found in practice to place obstacles in the way of or to hamper the settlement of refugees. For this reason His Majesty's Government considers that any remedial measures found to be needed for migrant workers (other than refugees) should be left to be dealt with by bilateral agreements based on local conditions.

Iraq

While the Government does not wish to raise any objection to the adoption of an International Labour Convention on this question, it points out that the subject does not pertain to Iraq.

Ireland

The Government of Ireland does not consider that there is at present any necessity for a Convention or Recommendation providing international regulations for the recruiting, placing and conditions of labour of migrant workers so far as Ireland is concerned.

Siam

The Government, having regard to the conditions in the country, does not consider that it can usefully reply to the Questionnaire.

Turkey

In view of the conditions prevailing in Turkey the Government does not consider itself in a position to furnish an opinion on the question.

Union of South Africa

With reference to this Questionnaire, it would seem that the measures under consideration would affect principally regulated migration. The only regulated migration on any considerable scale in South Africa is the importation of Native labour from Portuguese East Africa and other neighbouring territories, for the gold mining industry. This migration is subject to very strict Government control, and in so far as Portuguese East Africa is concerned is the subject of a treaty between the Governments affected. Further, as these Native workers are covered by a special Convention, viz. No. 50 concerning the recruiting of indigenous workers, they presumably do not fall within the scope of this Questionnaire. Spontaneous migration, on the other hand, is controlled under the Aliens Act, 1937, save in the case of British subjects, whose entry into the country is not subject to the same restrictions as operate in the case of aliens.

In view of the above, and as South Africa has not experienced any necessity for international regulations so far as its own migration prob-

lems are concerned, the Union Government does not consider a Draft Convention necessary. It would not, however, oppose such a Convention, in principle, if other States Members consider international regulation is called for.

* * *

The Government of the United States of America did not reply to the Questionnaire, but on each point it supplied information concerning the law and practice in that country which is reproduced below, question by question. This information was preceded by a general declaration, the text of which is as follows:

United States of America

The United States Government appreciates the effort of the International Labour Organisation and of its constituent Member Governments to establish reasonable standards and facilities for the workers who migrate from one country to another. It is anxious to co-operate in every practical way in the development of such standards and facilities. The United States Government therefore submits, in answer to this Questionnaire, a statement of its own laws, practices and experience in the hope that this may be helpful to other nations and to the International Labour Office in the development of standards and facilities for migrant workers where such a system is adopted.

However, it should be noted that this Government does not expect to participate in such discussions with the purpose of expanding the facilities now offered to applicants desiring to migrate to the United States, nor is it proposed at this time to participate in the formulation of bilateral agreements on the suggestions enumerated in this Questionnaire. It should also be noted that the method of recruiting immigrant workers with which this discussion is so largely concerned is not employed or even permitted under the laws of the United States.

* * *

The Governments of the following countries furnished detailed replies to the Questionnaire: Australia (Western Australia), Belgium, Canada (Alberta, Manitoba, Saskatchewan), China, Denmark, Egypt, Finland, France, India, the Netherlands, New Zealand, Norway, Poland, Rumania, Spain, Sweden and Switzerland.

I. — FORM OF THE INTERNATIONAL REGULATIONS

1. (1) Do you consider it desirable that the International Labour Conference should adopt a Draft Convention concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers ?

(2) Should this Draft Convention be supplemented by the adoption of one or more Recommendations on the subject ?

(3) Among the points enumerated below, please indicate those which you consider should be treated in a Convention rather than in a Recommendation, or *vice versa* in a Recommendation rather than in a Convention [1].

AUSTRALIA

Western Australia

1. (1) Yes.
(2) Yes.

BELGIUM

1. (1) It is desirable that the International Labour Conference should adopt a Draft Convention.

(2) For some points this Draft should be supplemented by one or more Recommendations.

(3) The points which should be treated in a Recommendation rather than a Convention include recruitment, placing and repatriation.

CANADA

Alberta

1. (1) Yes.
(2) Yes.
(3) No reply is given.

Manitoba

1. (1) Yes.
(2) Yes.
(3) No reply is given.

Saskatchewan

1. (1) The answer is in the affirmative.
(2) The answer is in the affirmative.

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[1] The Grey Report drew attention in this respect to the possible value of incorporating in a Draft Convention a series of principles concerning the recruiting, placing and conditions of labour of migrant workers and of grouping in one or more supplementary Recommendations suggestions for their application on particular points. A Recommendation might be drafted, for instance, on special agreements between the States directly concerned, which would render the application of the principles laid down in the future Draft Convention more effective (see section VI below, questions 18 and 19).

China

1. (1) and (2) The answer is in the affirmative.

Denmark

1. (1) to (3) The reply is in the affirmative. The Government considers it desirable that the International Labour Conference should adopt a Draft Convention concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers, while considering it natural—in view of the substantial differences in this field between the different countries—that any Convention adopted should contain only provisions on points of principle, and that other desirable proposals should be contained in one or more Recommendations.

Egypt

1. (1) Yes.

(2) Yes.

(3) II and III to be treated in a Convention and IV and V in a Recommendation.

Finland

1. (1) It is important from the point of view of Finland that Finnish workers in foreign countries should enjoy the same rights as national workers, that is, have equality of treatment. Further, Finland has ratified earlier international Conventions containing similar provisions and in certain agreements concluded with other countries has approved the principle of equality of treatment for foreign workers. It is therefore considered desirable that the recruiting, placing and conditions of labour of migrant workers should be regulated by an international Convention concerning these main points.

(2) The Draft Convention should be supplemented by one or more Recommendations, particularly with regard to questions that can be regulated more appropriately by special agreements between the countries directly concerned, but also in the cases where a satisfactory majority is not obtained for the inclusion of points in the general Draft Convention.

(3) The following points should be dealt with in the Draft Convention: II 2 (1); II 2 (2); II 3 (1); IV 12 (1).

France

1. During the first discussion of this question by the Conference, when the Committee's draft report was considered on 18 June 1938, the chairman and reporter of the Committee expressed the opinion that the time had come to prepare international regulations, as it might well be hoped that after a period of stagnation international migration would now expand considerably.

This assertion is highly questionable, and it would appear that in any case a Draft Convention could only be adopted if it were restricted to a statement of strictly general principles. It would be at least untimely to include questions on application, not only in a Convention but even in Recommendations, at a moment when the fluctuations of the labour market may call for rapid and contradictory decisions regarding immigration.

India

1. (1) Yes.

(2) Yes.

(3) *Convention* 2, 3, 4, 5 (1), 6, 7, 8, 9 (1) and (2), 12 (1), 12 (2) (ii), 13, 14, 15 (1) and 16 (1).
Recommendation 5 (2), 9 (3), 10, 11, 12 (2) (i), 15 (2), 17, 18 and 19.

Netherlands

1. (1) The reply is in the affirmative.

(2) The reply is in the affirmative.

(3) In the opinion of the Netherlands Government the points mentioned under 2 (1) and (2), 3 (1) and 6 (1) might be included in a Convention.

New Zealand

1. The experience of the New Zealand Government in regard to migration of workers has, in the main, been confined to the fostering of the settlement in this country of persons on the basis of permanent residence.
The New Zealand Government supports the adoption of a Draft Convention on this subject. So far as this country is concerned many of the questions would appear to apply to large scale migration, as for instance 3 and 4.

Norway

1. (1) Yes, covering the more important points of principle. See reply to paragraph (3) below.

(2) Yes, as regards details.

(3) The Convention should contain provisions dealing with unauthorised and misleading propaganda concerning emigration, as mentioned under II below; and as indicated under IV, it should include general provisions establishing immigrants' right to equality of treatment with the nationals of the country as regards wages, conditions of work and social rights.

Poland

1. (1) The Polish Government considers it desirable that a Convention should be adopted concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers. A number

of problems relating to this subject are of a fundamental character and are suitable for regulation in a Convention. Bilateral agreements and the national legislation of both the emigration and the immigration countries may be used as guides for the preparation of the Draft Convention.

(2) The Draft Convention should be supplemented by one or more Recommendations, for there is a second group of problems, either not sufficiently important, or not sufficiently mature, or not suitable for treatment in so rigid a form as that of a Draft Convention.

(3) The following points are suitable for regulation in a Draft Convention: prohibition and supervision of propaganda (question 2), endorsement of contracts of employment by the authorities of the emigration and the immigration country (question 5 (1)), designation of the institution responsible for the recruitment, selection and placing of foreign workers (question 6 (1)), the principle of equality of treatment, with specification of the matters to which it should apply (question 12 (1)), and the points relating to repatriation dealt with in questions 15 (1), 16 and 17 (*a*).

The other points raised in the Questionnaire are more suitable for treatment by means of Recommendations, in particular the following: supply of information and assistance (questions 3 and 4), problems relating to recruiting and placing (questions 5 (2), 6 (2), 7, 8, 9, 10 and 11), problems relating to contracts of employment (question 13), problems relating to labour inspection (question 14), problems relating to repatriation (questions 15 (2) and 17 (*b*)) and problems relating to bilateral agreements (questions 18 and 19).

Rumania

1. The Government considers that the International Labour Conference should adopt a Draft Convention concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers.

This Draft Convention should be supplemented by a Recommendation dealing in particular with the bilateral agreements between the countries directly concerned in the matter (points 18 and 19 of the Questionnaire) and certain questions relating to repatriation (point 16 (2) of the Questionnaire).

Spain

1. (1) A Draft Convention should be adopted.

(2) and (3) The Draft Convention might embody a series of general principles, leaving it for a Recommendation to establish the methods of application and to advise the conclusion of bilateral agreements between the States concerned.

Sweden

1. The Swedish Government considers that international regulations on this question might most suitably take the form of a Convention. In this way general rules for the treatment of migrant workers could

be attained. On the other hand one must bear in mind that conditions are very different within different countries. This being the case it considers that the Conference would be well-advised in present circumstances to limit the regulations to a Recommendation dealing approximately with the subjects referred to in the Questionnaire. The Recommendation might be supplemented by the conclusion of agreements by countries between which there is a large migration movement.

SWITZERLAND

1. (1) It seems hardly possible for the International Labour Conference to adopt a Draft Convention regulating all the questions which concern the recruiting, placing and conditions of labour (equality of treatment) of migrant workers.

(2) Certain principles and a few general provisions relating to application might perhaps be included in a Convention, which could be supplemented by one or more Recommendations.

(3) Chapter II, entitled Supply of Information and Assistance to Migrant Workers, and Chapter IV (Conditions of Employment), Section 1 (Equality of Treatment), (*a*), (*b*), (*c*), (*f*) might provide the subject matter for a Draft Convention; but a Recommendation should be the form contemplated for the other questions to which a reply has been given in the affirmative. Each time we have been able to do so, we have stated our opinion regarding the form of the international regulations when giving our replies.

II. — SUPPLY OF INFORMATION AND ASSISTANCE TO MIGRANT WORKERS

2. (1) Do you consider that the international regulations should provide that all unauthorised and in particular misleading propaganda concerning emigration and immigration should be prohibited and subject to a penalty ?

(2) Should there also be provision for supervision of advertisements, posters, tracts and all other forms of publicity concerning offers of employment in one country to workers of another country ?

AUSTRALIA

Western Australia

2. (1) Yes.

(2) Yes.

BELGIUM

2. (1) The international regulations should provide that all unauthorised and in particular misleading propaganda concerning emigration and immigration should be prohibited and subject to a penalty.

(2) There should be provision for supervision of advertisements, posters, tracts and all other forms of publicity concerning offers of employment in one country to workers of another country. Such supervision should be exercised more especially in the case of women and girls.

CANADA

Alberta

2 [1].

Manitoba

2. (1) Yes.

(2) Yes.

Saskatchewan

2. (1) The answer is in the affirmative.

(2) The answer is in the affirmative.

CHINA

2. (1) and (2) The answer is in the affirmative.

DENMARK

2. (1) and (2) The reply is in the affirmative. Provisions of this kind are to be found in the Danish Emigration Act (see section 32, subsection 4, and section 34). Under this Act any person who for purposes of gain makes use of misleading propaganda and other fraudulent methods to persuade another person to emigrate is liable to punishment.

EGYPT

2. (1) Yes.

(2) Yes.

FINLAND

2. (1) As unauthorised and in particular misleading propaganda may be harmful both to the workers themselves and to the emigration and immigration countries, such propaganda should be prohibited by the international regulations and made subject to a penalty.

(2) The reply is in the affirmative, but in the sense that such supervision should be entrusted to the same bodies as supervise similar illegal activities.

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[1] Under the heading "Supply of Information and Assistance to Migrant Workers" the reply is as follows: "No. 1 to 3 (inclusive): Yes". It is not clear what this means.

France

2. (1) The reply is in the affirmative. It should, however, be made clear that penalties should be the subject of a Recommendation only.

(2) Such supervision might be applied with great advantage to advertisements, posters, tracts and other forms of publicity from private sources concerning offers of employment.

India

2. (1) and (2) Where the educational standards of the country of recruitment make resort to written advertisements, etc., common supervision of such publicity is desirable.

Netherlands

2. The replies to both (1) and (2) are in the affirmative. These points might be included in the Convention.

New Zealand

2. Regulation of misleading propaganda upon the lines contemplated is regarded by the New Zealand Government as desirable.

Norway

2. (1) Yes, see also 1 (3) above.

(2) The reply is in the affirmative.

Poland

2. (1) It is indispensable that all unauthorised propaganda concerning emigration should be prohibited and made subject to penalty. As regards misleading propaganda, penalties are not sufficient when such propaganda is conducted in an emigration country, since the question whether it is misleading cannot be settled until too late (i.e. when the immigrant has already suffered irreparable loss). Further, it would be difficult to settle whether the propaganda was misleading, and the penalties would therefore not be effective. The only possibility would be to increase the penalties in cases in which unauthorised propaganda was found to have been misleading.

(2) The forms of publicity concerning offers of employment enumerated in this question should be assimilated to propaganda for emigration and therefore also made subject to supervision.

Rumania

2. Yes. The Government considers that the laws or regulations of each country should indicate the authority or authorities responsible for supervision of the various forms of publicity concerning offers of employment in one country to workers of another country. A provision on these lines might be included in the Draft Convention or Recommendation to be adopted by the Conference.

Spain

2. (1) The reply is in the affirmative.

(2) Yes, Spanish law recognises the right of every Spaniard to emigrate, but lays down certain restrictions and guarantees of a protective character.

Sweden

2. Misleading propaganda should be subject to a penalty, whereas on the other hand unauthorised propaganda cannot very well be punished. If legislation against misleading propaganda were to be adopted, a certain control of its observance would necessarily have to be exercised. An effective control would, however, meet with considerable difficulties. The Swedish legislation concerning liberty of the press would also throw certain obstacles in the way of the legislation here referred to.

Switzerland

2. (1) The Federal Act of 22 March 1888 and the administrative regulations issued under it, as well as the provisions governing settlement abroad, already give a large measure of effect to the provisions contemplated under this head. International regulations prohibiting all unauthorised and in particular misleading propaganda on pain of a penalty would appear likely to involve considerable progress. This is one of the points with regard to which adherence to a possible Convention does not seem to be excluded.

(2) The introduction of supervision of advertisements, posters, tracts and all other forms of publicity concerning offers of employment in one country to workers in another country would also be of value. As the forms of such supervision would be likely to vary considerably from one country to another, a Recommendation on this point would perhaps allow greater flexibility in the adjustment of national legislation.

United States of America

2. (1) American experience has indicated the desirability that Governments protect their nationals and others from false or misleading information concerning emigration and immigration by making available to the public as much accurate information as possible.

(2) Section 7 of the Immigration Act of 1917 (8 U.S.C. 143) makes it unlawful for any person or others engaged in transporting aliens to or within the United States, directly or indirectly, by writing, printing, oral representation, payment of commissions, allowance of rebates, or otherwise to solicit, invite, or encourage any alien to come to the United States, under penalty of civil forfeiture or criminal fine or imprisonment. The law does not, however, prevent transportation companies from issuing letters, circulars, or advertisements confined strictly to the sailing of their vessels and the terms and facilities of transportation therein. It is believed that this is a very salutary provision.

In this connection section 3 of the 1917 Act (8 U.S.C. 136) excludes from admission to the United States contract labourers, who are defined as aliens who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false; or in consequence of agreements, oral, written, or printed, express or implied, to perform labour in this country of any kind, skilled or unskilled.

There are also excluded aliens who have come to the United States in consequence of advertisements for labourers, printed, published, or distributed in a foreign country. There is an exception in favour of skilled labour which, if otherwise admissible, may be imported if the Secretary of Labor has determined in advance that labour of like kind unemployed cannot be found in the United States. The provision concerning contract labourers does not include certain aliens in the professional and learned groups, or domestic servants.

3. (1) Do you consider it desirable that each State should undertake to provide for a service to supply information and give assistance to migrant workers free of charge ?

(2) Should it be provided that the duties of this service should consist in

- **(*a*) supplying information to workers and their families, and advising them, in their languages or dialects, on matters relating to emigration, immigration, repatriation, employment and living conditions in the place of destination, and, generally speaking, any other question which may be of interest to them in their capacity as migrants ?**
- **(*b*) providing facilities for workers and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with their departure, journey, admission into the country of destination, residence there, and possible return to the country of origin ?**

(3) Should the operation of the above-mentioned service be entrusted:

- **(*a*) solely to the public authorities ?**

  ***or* (second possibility)**

- **(*b*) to the public authorities and to voluntary societies approved for this purpose by the authorities and subject to their supervision ?**

AUSTRALIA

Western Australia

3. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.
(3) Yes.

BELGIUM

3. (1) and (2) It is desirable that the State alone should undertake to supply information and give assistance to migrant workers free of charge as provided in question 3 (2) (*a*) and (*b*).

(3) The operation of the service mentioned should be entrusted in the first place to the public authorities, who might in certain cases have recourse to voluntary societies, which should be specially authorised for this purpose.

CANADA

Alberta

3. See note to question 2.

Manitoba

3. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.
(3) (*a*) No.
(*b*) Yes.

Saskatchewan

3. (1) The answer is in the affirmative.
(2) (*a*) The answer is in the affirmative.
(*b*) The answer is in the affirmative.
(3) (*a*) The answer is in the affirmative.
(*b*) The answer is in the negative.

CHINA

3. (1) to (3) The answer is in the affirmative.

DENMARK

3. (1) The reply is in the affirmative.

(2) (*a*) The reply is in the affirmative. See section 26 of the Danish Emigration Act.

(*b*) The reply is in the affirmative. It should be noted in this connection that the functions assigned to the Danish Emigration Office are those of a guide, and that therefore the persons actually concerned have themselves to take the responsibility for their emigration.

(3) It is desirable that the proposed system should not prevent the operation of the service in question by voluntary societies approved for this purpose by the authorities and subject to their supervision.

Egypt

3. (1) Yes.

(2) (*a*) Yes.

(*b*) Yes.

(3) For Egypt, public authorities.

Finland

3. (1) Since for reasons of population policy it is desirable to limit the emigration of workers, and since, further, the protection of the national employment market requires a reduction of the immigration of foreign workers, it does not seem desirable to compel a country such as Finland to introduce a special State service for the migration in question. Each country should have as wide a freedom as possible with regard to the establishment of such services (e.g. as regards the points mentioned below under questions 3 (3) (*a*) and (*b*)). Consequently the international Convention should merely lay down the principle that a social service should be established for this purpose.

(2) (*a*) The reply is in the affirmative.

(*b*) See above under 3 (1).

(3) (*a*) and (*b*) Alternative (*b*) should be recommended in the first place.

France

3. (1) It might indeed be desirable, to the extent to which such a Recommendation respected each State's freedom of decision, for a service to be operated free of charge with a view to supplying information to the workers.

(2) and (3) The duties proposed for this service appear, however, to require the collaboration of voluntary societies. In these circumstances it would perhaps be advisable to support the method specified in (3) (*b*), provided these societies were approved in advance by the public authorities and subjected to strict supervision.

In any case it should be understood that all complaints must be addressed to the official services recognised for the purpose, and to them alone, as indeed is laid down in the bilateral agreements.

It should be made clear in this connection that the point of view expressed during the discussion by the Netherlands Government member, who drew attention to the importance of experts of the emigration countries being sent out to the countries of immigration in order to

keep the home authorities informed of the general situation, cannot be taken into account. It is the province of the authorities of the immigration country alone to supervise conditions of work and life and to deal with any complaints which may be made on the subject.

India

3. (1) Yes.

(2) (*a*) Yes.

(*b*) Yes.

(3) (*a*) and (*b*) There is no objection in principle to associating voluntary societies in the service, provided these are reliable and suitable means can be devised of keeping a check on the operations.

Netherlands

3. (1) The reply is in the affirmative. This point might be included in the Convention.

(2) (*a*) and (*b*) The replies are in the affirmative.

(3) (*a*) The reply is in the negative.

(*b*) The reply is in the affirmative.

New Zealand

3. (1) A service of this nature should be available. This is not intended to mean that a separate service should be established in every country from which migrants may travel. At the present time a service is available in various parts of the British Empire. It would be necessary, however, to provide a service in any other country if large scale migration were adopted.

(2) Yes, it is considered that the fullest information possible should be available to the migrants before proceeding to their destination.

(3) The service should preferably be the responsibility of the public authority, but provision should be made for delegation to approved voluntary societies.

Norway

3. (1) The reply is in the affirmative.

(2) (*a*) and (*b*) Yes, in the form of a Recommendation.

(3) (*a*) The reply is in the affirmative.

(*b*) The reply is in the negative.

Poland

3. (1) Since the supply of information and assistance to migrant workers falls within the limits of labour protection and social assistance in the widest sense, it is highly desirable that all the States concerned

in the migration of workers should organise information and assistance for migrants. There should be no possibility of making a profit out of such activity. The question whether the service should be free of charge or whether part payment should be required is not an essential one and could be settled according to the nature of the service and the character of the emigration.

(2) All the activities enumerated under (*a*) and (*b*) of this question should be included in the duties of the institutions supplying information and assistance.

(3) The information and assistance may be provided both by the public authorities and by voluntary societies approved for the purpose by the competent authorities and subject to their supervision.

Rumania

3. It would be desirable for each State to provide for a service to supply information and give assistance to migrant workers free of charge.

The duties of this service and its method of organisation and operation should be determined by national laws or regulations.

Spain

3. (1) The reply is in the affirmative.[1] Each State should establish a free information service. In Spain the General Directorate of Emigration and the Emigration Inspectorate are responsible for this work.

(2) (*a*) and (*b*) Yes, the regulations should make provision for all these points.

(3) (*a*) and (*b*) The information should be given by the public authorities through the appropriate bodies or departments; in order to facilitate the supply of information to migrants there would, however, be no objection to authorising specified voluntary societies to furnish such information, provided that they are approved for this purpose by the authorities and are always under their supervision. In such conditions it would be possible to provide the migrant with information which is reliable, at least when communicated, for it may happen that an amendment to a migration law may not have been notified to the competent body.

Sweden

3. (1) It is desirable that each State should undertake to provide for a service to supervise migration and fulfil the duties of the State on this question.

(2) (*a*) Yes, but the duties indicated here seem to be too extensive, e.g. concerning employment and living conditions in the place of desti-

[1] Spanish law imposes severe penalties for the recruiting of emigrants and propaganda intended to promote emigration, lays down regulations for the publication of advertisements and tracts, and punishes breaches of these regulations.

nation. The intended provision might possibly be drawn up in a more general and careful way in this respect. The expression " in their languages or dialects " might be replaced by " in a language comprehensible to them ".

(*b*) Yes.

(3) It is not possible to give a reply to this question which would be of general application. It will depend on circumstances, such as the volume of migration and the standing of the voluntary societies, how the service in question should be operated.

Switzerland

3. (1) The Federal Emigration Office provides information and assistance, free of charge, in so far as its means allow, to migrant workers who apply to it. The general introduction of a service of this sort is certainly desirable.

(2) (*a*) and (*b*) Our reply to these questions is in the affirmative, since the Federal Emigration Office already performs, in respect of Swiss nationals, the various functions contemplated.

(3) (*a*) The reply is in the negative.

(*b*) The reply is in the affirmative.

United States of America

3. (1) No provision is made by this Government to supply employment information to foreign workers before their arrival in this country. In so far as information services within this country are concerned, a division of information in the Immigration and Naturalisation Service is required by section 30 of the 1917 Act " to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration ". This also would permit, under regulations prescribed by the Commissioner of Immigration and Naturalisation, subject to the Secretary's approval, agents appointed and maintained by any State or Territory to have access to aliens admitted to the United States in order to present to them the special inducements offered by such State or Territory to alien settlers.

Annual immigration to the United States during the past eight years has reached new low levels which, with the unemployment situation, has made an information service to migrant workers of much less practical importance than in earlier years of large immigration.

(2) See answer to question 3 (1).

Advice concerning employment opportunities has been available to all interested persons, whether aliens or citizens, through the various local offices of the United States Employment Service working in co-operation with State employment agencies. Information concerning immigration, and repatriation under the conditions permitted by the United States immigration law, has also been available, generally, throughout the United States from the field representatives of the Immigration and Naturalisation Service. In this connection the Immigration Act of 1917, as amended by the Act of 14 May 1937 (8 U.S.C. 102), provides for the removal to their native country or to the country from which they came or to the country of which they are citizens or subjects, at any

time after their entry into the United States at Government expense, of such aliens as fall into distress or need public aid from causes arising subsequent to their entry, provided such persons wish to be so removed. Persons thus removed, however, are ineligible for readmission to the United States except upon approval of the Secretary of State and the Secretary of Labor.

As far as countries of emigration are concerned, the services suggested in both (*a*) and (*b*) of this question would seem to be very helpful and desirable.

(3) It has been the experience of this Government in its activities which have involved social aspects, such as the investigation of conditions surrounding alien families in the United States, that private social service agencies with a public-spirited purpose have rendered valuable and effective service in co-operation with Governmental agencies.

Should non-Governmental agencies be granted permission to perform the services indicated in question 3 (2), the greatest care should be used to protect migrants against misleading information or exploitation.

4. In order to facilitate the supply of information to migrants:

(*a*) Do you consider that a reasonable interval should always be fixed between the publication and coming into force of any modification of the conditions on which emigration or immigration or the employment of foreign workers is permitted, in order that these conditions may be notified in good time to workers and their families preparing to emigrate ?

(*b*) Should provision also be made for the display of the text of the principal measures referred to under (*a*) above, or of notices relating thereto, in the languages most commonly known to migrant workers, at the places of departure, transit and arrival ?

AUSTRALIA

Western Australia

4. (*a*) Yes.
(*b*) Yes.

BELGIUM

4. (*a*) In order to facilitate the supply of information to migrants, a reasonable interval should always be fixed between the publication and coming into force of any modification of the conditions on which emigration or immigration or the employment of foreign workers is permitted, in order that these conditions may be notified in good time to workers and their families.

(*b*) Wider publicity should be given to the measures referred to under (*a*) above.

CANADA

Alberta

4. See note to question 2.

Manitoba

4. (*a*) Yes.
(*b*) Yes.

Saskatchewan

4. (*a*) The answer is in the affirmative.
(*b*) The answer is in the affirmative.

China

4. (*a*) and (*b*) The answer is in the affirmative.

Denmark

4. (*a*) and (*b*) The reply is in the affirmative.

Egypt

4. (*a*) Yes, but too long an interval should not be insisted on.
(*b*) Yes.

Finland

4. (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.

France

4. A distinction should be made between the two possibilities which are suggested in this question and which are only remotely connected. Acceptable as it may be to facilitate publication of the regulations in force by various measures for the display of the most important provisions, it is impossible to bind oneself in advance to the fixing of a reasonable interval between the publication and coming into force of any important provision. It may sometimes be useful to introduce certain changes at very short notice, too short to permit previous notification of intending emigrants.

India

4. (*a*) and (*b*) Yes.

Netherlands

4. (*a*) The reply is in the affirmative.
(*b*) The reply is in the negative.

New Zealand

4. These conditions are agreed to by the New Zealand Government subject to the qualification mentioned in reply to 3.

Norway

4. (*a*) and (*b*) This is considered superfluous.

Poland

4. (*a*) This question is of fundamental importance for any person who proposes to emigrate on the basis of existing conditions. Such a person is often required to make decisions on which his future depends and from which he cannot afterwards draw back. An unexpected measure preventing the execution of his plans may mean irretrievable disaster for him.

(*b*) It is desirable that all changes made in the provisions concerning emigrants should be brought to their notice in the manner most convenient to them.

Rumania

4. The reply is in the affirmative.

Spain

4. (*a*) For the reasons given in the reply to the previous question, there should always be a reasonable interval between the publication and the coming into force of any modification of emigration laws or regulations, in order that the modification may be known in good time by the competent bodies and notified to workers proposing to emigrate.

(*b*) The publicity given to this information should be conducted with prudence; in other words, it should not turn into propaganda for the encouragement of emigration, since any consequent recruiting must be prejudicial to the country concerned unless it is authorised by the public authorities in the manner prescribed by law. Apart from this objection, there seems to be no reason why the notices in question should not, for the better information of emigrants, be displayed at the places of departure, transit and arrival, after being examined by the competent authorities [1].

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[1] Under Spanish law, all collective emigration to foreign countries for settlement on the land or similar purposes requires a special permit from the Council of Ministers, issued on the basis of a report of the General Directorate of Emigration and the Central Emigration Committee. Collective emigration is defined as emigration which tends to depopulate a region, town or village.

SWEDEN

4. (*a*) Yes.
(*b*) Yes.

SWITZERLAND

4. (*a*) In view of the preparations—sometimes long and burdensome—which the emigration and immigration of workers require, and in view of the serious consequences that a modification of the conditions on which emigration or immigration or the employment of foreign workers is permitted may have for them in certain cases, it would be satisfactory if, as a general rule, new provisions were to be notified in good time to the persons concerned. There are, however, special circumstances in which the enforcement of provisions of this sort brooks no delay. The principle, excellent in itself, might be stated in a Recommendation—or in a Convention, if this form is chosen—but it should be possible to accompany such a statement with an appropriate reservation.

(*b*) The display of the text of the provisions referred to under (*a*) is of no great practical importance for Switzerland, unlike countries affected by large collective migration movements. It is therefore difficult for the Swiss Government to give a relevant opinion on the point, but it considers it desirable that the matter should be the subject of a Recommendation.

UNITED STATES OF AMERICA

4. (*a*) Congress in enacting immigration legislation has usually fixed the date upon which a particular statute is to become effective sufficiently in advance to give ample notice to most persons who might be affected by it. For instance, the Quota Act of 26 May 1924 became effective, generally, on 1 July 1924, while the Immigration Act of 5 February 1917 became effective on 1 May 1917.

(*b*) This Government furnishes a summary of United States immigration laws to steamship and transportation companies regularly engaged in transporting alien immigrants to the United States, for conspicuous posting in their foreign offices. They must be legibly printed in large letters in the languages of the countries where such offices are located, for the information of persons contemplating immigration to this country before tickets are sold to them, in accordance with the requirements of section 8 of the Immigration Act of 3 March 1893 (8 U.S.C. 172).

III. — RECRUITING AND PLACING OPERATIONS

5. (1) (*a*) Do you consider that the competent authorities of the immigration country should examine and endorse applications from employers in that country for introducing into it workers who are in another country, with a view to ensuring, in particular, that the interests of the workers are safeguarded and that the employment situation is not adversely affected ?

(*b*) **Do you consider that the competent authorities of the emigration country should examine and endorse applications from employers in another country for engaging workers who are in the first country, with a view to ensuring, in particular, that the interests of the workers are safeguarded and that the employment situation is not adversely affected ?**

(2) Would it be desirable for the immigration country not to allow the recruitment of workers in another country for introduction into its territory until it has ascertained whether there are already foreign workers in that territory able to undertake the work in question ?

AUSTRALIA

Western Australia

5. (1) (*a*) Yes.
(*b*) Yes.
(2) Yes.

BELGIUM

5. (1) (*a*) It is highly desirable that the authorities of the immigration country should examine and endorse applications from employers in that country with a view to ensuring in particular that the interests of foreign workers and the employment situation are safeguarded.

(*b*) The competent authorities of the emigration country should protect their nationals who are employed in other countries.

(2) In no case should the immigration country allow the recruitment of workers abroad when there are already foreign workers unemployed in its territory.

CANADA

Alberta

5. (1) (*a*) and (*b*) Yes.
(2) No reply is given.

Manitoba

5. (1) (*a*) Yes.
(*b*) Yes.
(2) Yes.

Saskatchewan

5. (1) (*a*) The answer is in the affirmative.
(*b*) The answer is in the affirmative.
(2) The answer is in the affirmative.

CHINA

5. The answer is in the affirmative.

DENMARK

5. (1) (*a*) The reply is in the affirmative.

(*b*) Yes, but subject to the observation made under 3.

(2) The existence of information indicating that there are already foreign workers in the territory in question able to undertake the work for which it is proposed to recruit workers in another country would no doubt be of value to migrant workers. It therefore seems that it would be expedient to adopt in a Recommendation a provision that the immigration country should provide information on this subject which might be placed at the disposal of migrant workers.

EGYPT

5. (1) (*a*) Yes.

(*b*) Yes.

(2) The immigration country must preserve its right to stop recruitment of workers abroad as long as the local labour market can supply the needs of the country.

FINLAND

5. (1) (*a*) and (*b*) Although it is desirable that migrant workers should not be placed in conditions inferior to those of national workers in the country of immigration, and although there may also be a risk that these migrant workers, by accepting offers of employment from employers, may help to bring down wages, it seems difficult to provide in the international Convention that every contract of employment should be examined and endorsed by the public authority. If such a provision were included in the Convention, it would be necessary to provide also that applications from employers for foreign workers already in the country (e.g. one year after they have entered the country) should be approved by the authorities. It seems that the regulation of this question should be left to the countries concerned.

(2) To prevent the excessive immigration of foreign workers the measures recommended in this question might be justified. The point should be included in the Recommendation.

FRANCE

5. (1) (*a*) Yes, of course.

(*b*) This follows logically from (*a*).

(2) This also is obvious. Moreover, it only confirms the practice long since adopted by every country desirous of ensuring a satisfactory balance between its supply of and demand for labour.

INDIA

5. (1) (*a*) Yes.

(*b*) Yes.

NETHERLANDS

5. (1) (*a*) and (*b*) The replies are in the affirmative.

(2) The reply is in the affirmative.

NEW ZEALAND

5. This question appears to envisage the establishment of an immigration and emigration service with supervision on a basis that may be justified in countries with large migration movements. The proposal, however, appears to contemplate much more than is warranted in respect of this country. In respect of organised migration it is nevertheless endorsed by the New Zealand Government.

NORWAY

5. (1) (*a*) and (*b*) Yes, as part of the Convention.

(2) Yes, as part of the Convention.

POLAND

5. (1) It is indispensable that the competent authorities of the emigration country as well as those of the immigration country should examine and endorse the applications for foreign workers, both in order to safeguard the interests of the workers and in order that the employment situation may not be adversely affected.

(2) It is desirable that the authorities of the immigration country, before granting authorisations to recruit workers abroad, should ascertain whether it would not be possible to have the work in question done by foreign workers already in the territory of the immigration country. This measure would facilitate the employment of persons who had previously immigrated and might avoid repatriation on account of unemployment.

RUMANIA

5. The reply is in the affirmative.

SPAIN

5. (1) (*a*) The competent authorities of the immigration country should examine and endorse such applications.

(*b*) Yes. This is the system in Spain, applied through the Spanish consulates abroad and the emigration inspection services.

(2) Yes. The immigration country should verify the conditions indicated in this question before authorising the recruiting of workers abroad, for any such recruiting may be contrary to the interests of the country by undoubtedly stimulating unemployment.

Sweden

5. (1) (*a*) Yes, such an examination may be appropriate and in certain circumstances necessary.

(*b*) An examination of the kind here indicated would in many cases meet with considerable difficulties and impose a dangerous responsibility on the competent authority.

(2) Yes, before permission to work is granted in Sweden to a foreign worker, an inquiry is made with a view to ascertaining whether native or foreign workers are available in the occupation concerned.

Switzerland

5. (1) and (2) The questions under this head are based on the highly praiseworthy desire to ensure, first, a strict supervision of the employment agencies in the country of immigration and, secondly, a judicious selection of emigrants and the protection of their interests in the country of emigration. In each case the suggested examination of employers' applications for workers implies the organisation of a highly developed system of supervision. It is probable that some States would have to establish completely new legislative and administrative machinery with this object, and that others would have to reform theirs in order to bring them into harmony with the international regulations. It may therefore be asked whether the means suggested would be certain to attain the object in view. Further, it is to be feared that at a time when economic conditions were favourable, or merely normal, the working of the contemplated system of supervision would deprive natural migration movements of a large part of the flexibility and spontaneity which they need for due development. For this reason we are obliged to answer the questions under 5 in the negative.

United States of America

5. (1) See answers to questions 2 (2) and 5 (2).

(2) The only significant exception to the exclusion referred to in the answer to question 2 (2) permits employers in the United States, upon previous authorisation by the Secretary of Labor, to import into the United States skilled labour, otherwise admissible under the immigration laws, if labour of like kind unemployed cannot be found in the United States.

6. (1) Do you consider that, in connection with the employment in one country of workers from another country, the right to undertake the recruitment or selection of workers in the emigration country, and the introduction or placing in employment of workers in the immigration country, should be reserved to:

(*a*) public employment exchanges or other public bodies of the country in which the operations are to take place; and,

(*b*) subject to securing a licence for the purpose from the authorities of the country in which the operations are to take place:

(i) to the employer or persons engaged by him and acting only on his behalf;

(ii) to private employment agencies (placing services of companies, institutions, agencies or other organisations) [1] provided that they are not conducted with a view to profit ?

(2) If your reply to the preceding question, 6 (1) (*b*), is in the affirmative:

(*a*) Do you consider that the conditions for the issue or renewal of the above-mentioned licences should be determined by the national laws or regulations concerned or by bilateral agreements between the emigration and immigration countries ?

(*b*) (i) Should the activities and working of the bodies mentioned in Question 6 (1) (*b*) (ii) above be supervised by the State on whose territory they operate ?

(ii) If so, what methods of exercising this supervision might be used ?

(iii) In particular, should the bodies in question provide guarantees for the payment of compensation to the migrant worker in respect of any damage he suffers through the fault of the said bodies ? If so, can you indicate the forms in which these guarantees should be furnished ?

AUSTRALIA

Western Australia

6. (1) (*a*) Yes.
(*b*) (i) Yes.
(ii) Yes.
(2) (*a*) By national laws or regulations.
(*b*) (i) Yes.
(ii) State Employment Department's officers should supervise.
(iii) By agreements made legally binding between the parties.

BELGIUM

6. (1) A distinction should be drawn as regards the recruitment or selection of workers between migration to overseas countries and to European countries.

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[1] The list given in these brackets reproduces that contained in the definition of employment agencies not conducted with a view to profit in Article 1, paragraph 1 (*b*) of the Fee-Charging Employment Agencies Convention, 1933 (No. 34).

In the latter case, public employment exchanges or other public bodies of the country in which the operations are to take place seem to afford all the necessary security.

In the former case, recruitment and transport should be entrusted only to specially licensed persons.

(2) (*a*) The conditions for the issue or renewal of the licences should be determined by national laws or regulations, but in certain special cases bilateral agreements might be concluded between the country of emigration and that of immigration.

(*b*) (i) The State on whose territory the operations are effected should supervise the activities and working of the bodies mentioned in question 6 (1) (*b*) (i).

(ii) The methods of supervision should be determined by national laws or regulations.

(iii) See reply to question 7.

CANADA

Alberta

6. (1) (*a*) and (*b*) Yes.

(2) (*a*) No reply is given.

(*b*) (i) Yes.

(ii) Optional with the particular State or Province.

(iii) No.

Manitoba

6. (1) (*a*) Yes.

(*b*) Yes.

(i) No.

(ii) Yes.

(2) (*a*) National laws.

(*b*) (i) Yes.

(ii) Government Board.

(iii) Yes, written declarations taken under oath.

Saskatchewan

6. (1) (*a*) The answer is in the affirmative with the inclusion of a trade union organisation which conducts its own business agency.

(*b*) The answer is in the negative.

CHINA

6. The answer is in the affirmative.

DENMARK

6. (1) Recruiting and placing operations should be reserved also to private employment agencies and employers, on condition that such

operations are conducted in virtue of a general official permit or under official supervision in each case.

(2) (*a*) The conditions should be determined by national laws or regulations.

(*b*) (i) The reply is in the affirmative.

(ii) It seems that this matter should be left to national laws and regulations.

(iii) If the bodies in question are guilty of negligence, it is of course possible that the question would arise of compensating the damage in accordance with the general rules laid down in laws or regulations. It would no doubt be expedient to leave the form of the guarantees for the payment of any compensation to agreements between the countries directly concerned. (See reply to question 18).

EGYPT

6. (1) (*a*) Yes.

(*b*) (i) Yes.

(ii) No.

(2) (*a*) By national laws or regulations.

(*b*) No reply is given.

FINLAND

6. (1) It seems desirable that the right to undertake the recruitment or selection of workers should be reserved to the public employment exchanges, to private employment agencies under public supervision and to employers and their representatives. In Finland, under the Order of 23 July 1936 concerning the application of the Act on the placing of Finnish workers abroad and of foreign workers in Finland, the instructions issued by the Ministry of Social Affairs have to be observed. At the same time associations are not entitled to undertake placing operations without a special permit from the Ministry of Social Affairs. (In Finland only the communal authorities and associations have the right to engage in placing operations.)

(2) This question should be regulated by agreements between the countries concerned.

FRANCE

6. (1) The reply is in the affirmative.

(2) (*a*) The conditions for the issue or renewal of such licences should be determined by national laws or regulations.

(*b*) (i) The activities of such bodies should be supervised by the "recruiting" State; the supervision should be permanent.

(ii) It might, for instance, be exercised through a Government commissioner attached to each body authorised to undertake recruiting.

(iii) The reply is in the affirmative.

Provision should be made, in the conditions imposed on any recruiting body, for the possibility of requiring payment of a deposit.

India

6. (1) (*a*) No.

(*b*) (i) and (ii) If the private employment agencies are reliable and suitable means can be devised of keeping a check on their operations, there is no objection to licences being issued to them.

(2) (*a*) By bilateral agreement.

(*b*) (i) Yes.

(ii) By appointing a local official as an *ex officio* member thereof; by scrutinising propaganda conducted by them; by interrogating labourers recruited by them.

(iii) Yes; the bodies may be required to maintain a fund financed by a small levy, collected otherwise than through the labourers, in respect of each recruit.

Netherlands

6. (1) The reply is in the affirmative. These points might be included in a Convention. The replies to 6 (1) (*a*), (*b*) (i) and (ii), and 6 (2) (*a*) and (*b*) (i) are all in the affirmative.

As to 6 (2) (*b*) (ii), the Netherlands Government is of the opinion that the supervision might be exercised by means of a central licensing system and of supervision by the public authorities as regards migration and placing.

The reply to 6 (2) (*b*) (iii) is in the negative.

New Zealand

6. Collective recruitment of workers should be reserved to public authorities with, however, provision for recognition of direct recruiting by employers or organisations subject to review by the public authority.

Norway

6. (1) and (2) As conditions in the different countries vary widely, the general adoption of the best system (engagement through the public employment exchanges) will probably be impracticable. The Government therefore considers that the question should be arranged by mutual agreement, on the assumption that the authorities of the countries concerned must in any case have approved the institution or agent acting as a middleman, and are therefore responsible. This point should be dealt with in a Recommendation.

Poland

6. (1) The functions of recruiting, selecting, introducing and placing foreign workers may be carried out either

(*a*) by public employment exchanges or other public bodies, or,

(*b*) subject to securing a licence for the purpose from the authorities of the country in which the operations are to take place,

(i) by the employer or persons acting on his behalf;

(ii) by private employment agencies not conducted with a view to profit, provided their work is carried on in accordance with the principles agreed on by the emigration and immigration countries.

In accordance with the desires expressed in this connection by a number of social workers and emigration societies and with a resolution adopted by the Migration Conference at Havana, such functions should in no case be entrusted to employment agencies conducted with a view to profit.

(2) (*a*) The issue of the licences referred to in question 6 (1) (*b*) should always be governed by the national laws or regulations. If migration between two countries develops into a permanent movement, it is desirable that the conditions for the issue of licences for recruitment, selection, and placing should be determined by bilateral agreement. In particular, the issue of recruiting licences to the employment offices of private institutions should be governed by international bilateral agreement.

(*b*) (i) The activities of employers and persons acting on their behalf, and of private employment agencies, should be subject to the supervision of the State on whose territory they operate;

(ii) The determination of the form of supervision should be left to the national laws or regulations or to bilateral agreements; the details of such supervision may vary very widely, and it does not appear indispensable to lay down uniform rules on the subject;

(iii) It is desirable that the bodies in question should provide guarantees for the payment of compensation to the migrant worker in respect of any damage he suffers through their fault. The guarantee might be given in the form of deposits made in the country where the recruiting takes place. These deposits would be used to compensate the recruited workers whose complaints had been recognised as well-founded and as occasioned by the fault of the recruiting body. Such a system is provided for in the Polish emigration legislation, where it applies to the transport of emigrants by sea.

RUMANIA

6. It would be preferable for the operations of recruiting and selection in emigration and immigration countries to be reserved by national laws or regulations to public employment exchanges or other public bodies and—under conditions to be fixed by the same laws or regulations—to the employer or persons engaged by him and acting only on his behalf.

SPAIN

6. (1) The right to undertake such operations should be reserved to the public employment exchanges or other public bodies of the country; in certain cases, however, and subject to prior authorisation

from the competent authorities, this right might be granted to private persons, but only when obviously necessary or desirable.

(2) It would be sufficient for the issue of licences to private persons to be governed by national laws or regulations, since in any case it is the competent authorities of the country concerned that always have to supervise the activity of such persons; it is obvious, however, that bilateral agreements would carry more weight and would furnish wider guarantees.

Supervision should be exercised by the competent authorities in the emigration and the immigration countries.

When the workers suffer damage through the fault of the employer or his agent *(contratista)*, the latter should undoubtedly be required to pay compensation. This, however, implies the necessity for definite guarantees for the enforcement of this rule; one of these guarantees might consist in the deposit of money with the public authorities, without which the employer or his agent should not be authorised to engage in any operation.

Sweden

6. (1) The measures referred to here should as a rule, at least as regards migration on a large scale, be reserved to public employment exchanges. However, especially with regard to recruitment, etc. on a small scale, no real risk seems to be involved, if the functions are entrusted to such persons or institutions as are mentioned under (1) (*b*), (i) or (ii), subject to a licence being obtained from the authorities.

(2) (*a*) The national laws or regulations.

(*b*) (i) Yes.

(ii) The methods of exercising the supervision need not be stated in the international regulations. This can suitably be regulated by the national laws or regulations.

(iii) It may not be possible to lay down such a rule owing to practical difficulties.

Switzerland

6. (1) and (2) The considerations set forth in reply to question 5 apply also to question 6.

United States of America

6. It is not the policy of the United States Government to initiate steps for bringing alien workers into the United States in connection with obtaining employment in this country for them. This is a matter resting entirely with the prospective immigrants themselves or with employers who seek skilled labour where like labour unemployed is unavailable here.

7. (1) Do you consider that every intermediary referred to in question 6 above should, when proceeding on behalf of an employer in one country to engage workers in another or to introduce foreign workers into the first country, be required to obtain a written warrant from the said employer ?

(2) If so, should this warrant:

(i) be drawn up in, or translated into, the languages or dialects of the migrant workers ?

(ii) set forth the necessary particulars concerning the employer ?

(iii) set forth the necessary particulars concerning the nature and scope of the recruiting operations that the intermediary has been asked to undertake ?

(iv) set forth the necessary particulars concerning the work and the terms of payment therefor offered through the intermediary to the migrant workers ?

AUSTRALIA

Western Australia

7. (1) Yes.
(2) (i) to (iv) Yes.

BELGIUM

7. In Belgium, persons and shipping companies wishing to obtain from the Ministry of Foreign Affairs and Foreign Trade a licence to embark and carry emigrants must be domiciled in Belgium and pay a deposit of 100,000 francs. This amount is not refunded until six months after the persons concerned give notice that they are ceasing business, or after the death of the licensee. The same provisions also apply to persons or firms opening an emigration agency or undertaking to carry emigrants for a foreign firm or to a port of embarkation in Europe other than a Belgian port.

Persons or firms who have obtained the licence mentioned are entitled to appoint sub-agents with power to recruit emigrants.

The sub-agents who guide or in any way solicit emigrants during their transit through the country and their residence in the port of embarkation must be given regular authority to do so by the licensee and be approved by the local authority.

By giving such an authority the licensee becomes responsible for the actions of his agent. The powers so conferred are valid for only one year. When appointing sub-agents the licensee must submit the appointments for endorsement to the Government Commissioner. Endorsement may be refused and powers previously conferred may be withdrawn by reason of misconduct or serious abuse.

Persons holding an emigration licence and their agents or sub-agents are required to post up in the most prominent place in their offices the prices charged for passage by the different shipping companies for whom they have authority to issue tickets.

Persons holding emigration licences are responsible for all the acts performed by their employees when recruiting or transporting emigrants. They are therefore personally responsible for their own operations and for those of their sub-agents and their representatives abroad.

CANADA

Alberta

7. (1) and (2) Yes.

Manitoba

7. (1) Yes.
(2) (i) Yes.
(ii) Yes.
(iii) Yes.
(iv) Yes.

Saskatchewan

7. (1) The answer is in the affirmative.
(2) (i) to (iv) The answer is in the affirmative.

China

7. The answer is in the affirmative.

Denmark

7. An absolute obligation to obtain a written warrant seems hardly necessary in cases where the agent's operations are conducted under official supervision. See above, under question 6.

Egypt

7. (1) Yes.
(2) Yes.

Finland

7. (1) The reply is in the affirmative. The questions mentioned under this head might be included in the Recommendation, to be taken into consideration as far as possible.

France

7. (1) It seems indispensable that every intermediary operating on behalf of an employer should be required to submit, not a warrant properly so-called, but a contract of employment, or an application to introduce workers signed by the employer. This contract should contain all the necessary particulars respecting the wages paid, the method of paying wages, the conditions of employment, etc.

(2) It seems advisable for this contract to include the necessary translation. On the other hand, it is not necessary for particulars to be furnished respecting either the employer or the nature and scope of the recruiting operations.

India

7. (1) Yes.
(2) (i) to (iv) Yes.

NETHERLANDS

7. (1) The reply is in the affirmative.

(2) (i) (ii) (iii) and (iv). The replies are in the affirmative.

NEW ZEALAND

7. Yes.

NORWAY

7. (1) and (2) The Government considers that this matter should be dealt with in the mutual agreements mentioned in the reply to the previous question.

POLAND

7. (1) Every intermediary acting on behalf of an employer should be required to hold a written warrant.

(2) (i) The warrant would serve above all as a certificate for the authorities of the emigration country. It should therefore be drawn up in or translated into the official language of that country.

(ii) Yes.

(iii) Yes.

(iv) Yes.

RUMANIA

7. The reply is in the affirmative.

SPAIN

7. (1) Intermediaries should be required to obtain a warrant from the employer.

(2) Yes. The warrant or permit in question should satisfy the conditions set forth in this question.

SWEDEN

7. (1) Yes.

(2) Yes. With regard to " dialect " under (i) see the reply to question 3 (2) (*a*).

SWITZERLAND

7. (1) and (2) The considerations set forth in reply to question 5 apply also to question 7.

UNITED STATES OF AMERICA

7. See answer to question 6.

8. (1) Do you consider that, in each country where migrant workers are recruited or introduced, the competent authorities should fix and publish maximum scales for the expenditure that may be charged to the migrant worker recruited in or introduced into the country or to his employer on account of the expenses of recruitment, travelling (including maintenance during the journey), placing, repatriation, or other operations connected therewith ?

(2) Should there be an obligation not to charge the expenditure referred to in the preceding question 8 (1) to the worker ?

AUSTRALIA

Western Australia

8. (1) Yes.
(2) No.

BELGIUM

8. (1) The authorities responsible for supervising the recruitment of migrant workers should fix and publish scales for the expenditure to which such recruitment may give rise.

(2) In Belgium the competent authority will not deliver a licence to recruit and transport emigrants unless the applicant gives a formal undertaking not to recruit emigrants either in Belgium or abroad by promising them a free passage.

The above remarks apply to overseas emigration.

CANADA

Alberta

8. (1) Yes.
(2) No.

Manitoba

8. (1) Yes.
(2) Yes.

Saskatchewan

8. (1) The answer is in the affirmative.
(2) The answer is in the affirmative.

CHINA

8. The answer is in the affirmative.

Denmark

8. (1) The Government has no experience in regard to the possibility of fixing maximum scales for this kind of expenditure, but it believes that it would be expedient, if such regulations were adopted in regard to this expenditure, that the information which might be drawn from the application of the regulations should be placed at the disposal of migrant workers. These provisions should preferably be the subject of a Recommendation.

(2) Such an obligation should certainly not be included in a Convention since it might hamper migration; further, it would probably prove purely formal in character because the expenditure in question forms one of the factors to be taken into account in fixing wages. It would no doubt be more expedient to adopt provisions concerning the allocation of the expenditure, for inclusion in the contract of employment between the parties concerned.

Egypt

8. (1) No.

(2) Yes.

Finland

8. The question should be left to the discretion of the countries concerned.

France

8. (1) The provision suggested in this question appears difficult to put into practice. Indispensable though it may be in principle that a limit should be placed on the expenditure charged either to the employer or to the worker, it seems impossible to make this the subject of an official publication. In the first place, this expenditure may be essentially variable owing to possible changes in transport charges or in the length of periods of maintenance. Secondly, the fixing of such expenditure would appear to depend exclusively on the authorities of the country where recruiting is undertaken; the expenditure charged to employers (particularly as regards repatriation ordered by these authorities) is usually inserted in the contracts of employment concluded by the employers in question.

In any case, it would not seem to be advisable to include such a provision in a Draft Convention.

(2) The terms of contracts of employment as a rule provide for the charging of this expenditure to the employer. The question may therefore be settled rather by the appropriate drafting of contracts of employment than by an express provision of a Draft Convention.

India

8. (1) Yes.

(2) Yes; the obligation should be for the employer, and no expenditure at all should be charged to the migrant worker.

NETHERLANDS

8. (1) and (2). The replies are in the affirmative.

NEW ZEALAND

8. Yes.

NORWAY

8. (1) Yes, in a Recommendation.

(2) This is hardly practicable otherwise than in connection with long-term contracts, which cannot be recommended.

POLAND

8. (1) and (2). The expenses referred to in this question should not be charged to the worker. As he is usually not in a position to pay them in cash, they would have to be stopped from his wages, the nominal value of which would therefore be diminished. It must be borne in mind that the foreign worker's wage, particularly at the outset of his stay in the immigration country, is based on the minimum rate paid to local workers, and consequently any sums stopped will still further accentuate the difference between the wage rates of national and foreign workers and thus render equality of treatment ineffective both in principle and as regards the wage level. At the most, the employer might at the outset withhold part of the wages up to an amount provided for in the contract, as guarantee against breach of contract by the worker without sufficient reason. As regards the expenditure charged to employers by the placing institutions, this should be submitted to the authorities of the emigration and immigration countries for approval.

RUMANIA

8. The Government considers that in countries where migrant workers are recruited or introduced, the competent authorities should fix and publish maximum scales for the expenditure that may be charged on account of the expenses of recruitment, travelling (including maintenance during the journey), placing, repatriation or other operations connected therewith.

These expenses should be borne by the employer and not by the worker.

SPAIN

8. (1) It would be very desirable for the maximum scales for expenditure to be fixed by the competent authorities. If recruiting is carried out by the public authorities, such expenditure could be covered without much difficulty by the States concerned; the position would, however, not be the same when recruiting is carried out by private persons.

(2) It should be recommended that this expenditure should be covered by the States or by the employer or his agent; but if this recommendation were found to be impracticable and if the workers engaged were to be required to repay the expenditure incurred, it would be essential to agree on a system for making the conditions and time limits for these repayments as advantageous as possible, in order to avoid any serious deterioration in the material situation of the workers.

Sweden

8. (1) Desirable but not very easy to realise in many cases, on account of the varying conditions.

(2) In rare cases such a charge might be right; as a rule it should however be avoided.

Switzerland

8. (1) and (2) The considerations set forth in reply to question 5 apply also to question 8.

United States of America

8. As indicated in other questions, this is beyond the scope of American experience.

9. (1) Do you consider that migrant workers who have been recruited should be examined before their departure from the emigration country by a representative of the immigration country, in order to make sure that they will be eligible for admission into the country of destination ?

(2) Should a competent official of the emigration country be present when any operations are carried out for the recruiting of workers for employment abroad if the operations take place on a sufficiently large scale to be considered as collective recruiting under the law and practice of the emigration country ?

(3) Should the examinations and operations referred to in (1) and (2) above be carried out as near as possible to the workers' homes ?

Australia

Western Australia

9. (1) to (3) Yes.

Belgium

9. (1) Yes, and if this is done the Government of the immigration country should be held responsible.

(2) It would be desirable that a competent official should be present when collective recruiting operations take place on a large scale.

(3) Yes, so far as possible.

CANADA

Alberta

9. (1), (2) and (3) Yes.

Manitoba

9. (1) Yes.
(2) Yes.
(3) Yes.

Saskatchewan

9. (1) The answer is in the affirmative.
(2) The answer is in the affirmative.
(3) The answer is in the affirmative.

CHINA

9. The answer is in the affirmative.

DENMARK

9. (1) In many cases such a measure would no doubt be recommendable in the case of collective migration. Provisions of this kind should be the subject of a Recommendation.

(2) The reply is in the affirmative.

(3) The reply is in the affirmative.

EGYPT.

9. (1) Yes, from a health point of view, but it is assumed that no migrant worker starts for his destination without permission to work in the immigration country.

(2) Yes, in principle.

(3) Yes.

FINLAND

9. If the examination in question cannot yield absolute certainty that the workers satisfy the conditions for admission into the country of destination, such examination does not appear desirable. If such certainty can be obtained, this point seems suitable for inclusion in the Recommendation.

France

9. (1) This question does not seem clear. Most of the labour treaties provide for the possibility of organising in the country where workers are recruited a system for their selection from the occupational and medical points of view, and generally determine the conditions for the working of the system. It should therefore be made clear whether the question refers to the actual principle of selection before departure of the workers, or to the methods of applying it. In the latter case, it is obvious that whatever methods are adopted, the selection, even if carried out by the accredited representatives of the employers, should nevertheless be undertaken under the sole authority of the qualified representative of the recruiting State.

(2) The reply to this question should be furnished by the States concerned. It is in any case clear that this official should not be able to contest the selection operations effected by the recruiting countries.

(3) It is impossible to give an exact reply to a question which is essentially one of convenience in each case; no rule can therefore be laid down on this subject.

India

9. (1) Yes.

(2) Yes.

(3) Yes.

Netherlands

9. (1) The Netherlands Government considers it desirable that migrant workers should, before leaving the emigration country, be examined by a representative of the immigration country in order to make sure that they will be eligible for admission into the country of destination.

(2) and (3). The replies are in the affirmative.

New Zealand

9. The examination of migrants may be impracticable in the country of their origin as this would necessitate a service in many countries. In the case of large scale migration this is a necessary preliminary before departure of the migrant.

Norway

9. (1) Yes, in a Recommendation.

(2) and (3) The Government considers this superfluous.

Poland

9. (1) Examination of the recruited workers by representatives of the immigration country would be useful and is advisable, provided

it involves an undertaking that workers who pass the examination will be admitted. The examination might apply to the worker's state of health and occupational qualifications as well as to any other points provided for in the recruiting notice.

(2) The presence of an expert official of the emigration country during collective recruiting operations is highly desirable.

(3) The recruiting and preliminary operations should be carried on as near as possible to the worker's home, so as to save him a journey involving expense and inconvenience without guarantee of success.

Rumania

9. The reply is in the affirmative.

Spain

9. (1) The reply is in the affirmative.

(2) Yes, and the aim should be to have such operations carried out in premises situated as near as possible to the worker's place of residence. This system is already applied in connection with health supervision on departure by sea, emigrants being examined by the ship's doctor in the presence of a doctor of the emigration country. The sending back of emigrants from the country of destination is a real tragedy for them. Consequently, in order to avoid this, the provisions mentioned in the preceding question should be adopted.

(3) A reply has already been given to this question.

Sweden

9. (1) Yes, this is of course desirable. In the case of recruitment on a small scale such an examination may not reasonably be required.

(2) Yes, desirable.

(3) A provision of this kind hardly seems to be called for in the international regulations.

Switzerland

9. (1), (2) and (3) The questions under this head concern primarily countries where the operations relating to the recruiting of migrant workers are likely to assume substantial proportions. This is not the situation in Switzerland, where most cases of immigration and emigration are of an individual character.

United States of America

9. Since 1925 there have been stationed in several of the countries in Europe from which a substantial volume of immigration has come to the United States, immigrant inspectors of the Immigration and Naturalisation Service and public health surgeons of the Bureau of the Public

Health Service, Treasury Department, to serve as technical advisers to United States consuls in considering the eligibility of aliens to come to the United States under the immigration laws. While the issuance of immigration visas or passport visas by United States consuls is not a guarantee that the aliens to whom they are issued will be admitted to the United States, visas issued with such technical care are usually accepted by the immigrant inspectors upon arrival at ports of the United States.

10. In order that facilities may be accorded to families desiring to accompany or join one of their members who is leaving or has left for a foreign country as a migrant worker, do you consider that provision should be made on behalf of these families for:

(*a*) priority over other applications for permits to leave the emigration country and for permits to enter or reside in the immigration country ?

(*b*) simplification of the formalities to be fulfilled, and reduction of the payments to be made, on leaving the emigration country and entering or setting up residence in the immigration country ?

AUSTRALIA

Western Australia

10. (*a*) Yes.
(*b*) Yes.

BELGIUM

10. (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.

CANADA

Alberta

10. (*a*) and (*b*) Yes.

Manitoba

10. (*a*) Yes.
(*b*) Yes.

Saskatchewan

10. (*a*) The answer is in the affirmative.
(*b*) The answer is in the affirmative.

CHINA

10. The answer is in the affirmative.

DENMARK

10. It would be natural to adopt provisions concerning this question in a Recommendation.

EGYPT

10. (*a*) Yes.
(*b*) Yes.

FINLAND

10. This point may be recommended as suitable for consideration to the extent that the conditions in the different countries allow.

FRANCE

10. Just as it is highly desirable to favour the reunion of families —a measure which has indeed been a constant preoccupation of immigration countries wishing to stabilise their additional labour by this very means—so it is impossible in this case to lay down rules as detailed as those proposed here.

As regards the rule proposed in (*a*), no priority can be granted with respect to permits to enter a country, since these must be strictly adapted to the country's needs and must be granted with reference to the composition of the immigrant's family desiring to join him, the health of each member of the family, and the material position and state of health of the breadwinner. Such a provision should therefore be excluded. At the most it might be the subject of a Recommendation.

As regards (*b*), no undertaking can be given regarding either admission to, or establishment in, the country of immigration; consequently, a simplification of the formalities and a possible reduction of the payments to be made could at the most take the form of administrative measures, capable of repeal at very short notice if necessary, and could not be specified in a Draft Convention.

INDIA

10. (*a*) Yes.
(*b*) Yes.

NETHERLANDS

10. (*a*) and (*b*) The replies are in the affirmative.

NEW ZEALAND

10. (*a*) Yes.
(*b*) The answer is in the negative unless assistance is granted under some scheme approved by the authority.

Norway

10. Yes, in a Recommendation.

Poland

10. It is extremely important, for social reasons, in the interest of the worker and his family, and in the interest of the emigration and immigration countries, that facilities should be accorded to members of the emigrant's family desiring to live with him. For the emigration country, it is desirable to avoid a position in which the members of the emigrant's family are left on its territory without means, while the emigrant begins to neglect his family responsibilities after a certain period of separation. It is also in the interest of the immigration country that the immigrant should send for his family: this increases his attachment to the country in which he is living, and a normal family life has a favourable effect on his output.

For these reasons, it is desirable to provide for

(*a*) priority with regard to permits to leave the emigration country and permits to enter or reside in the immigration country;

(*b*) simplification of the formalities and reduction in the payments to be made for the above-mentioned permits.

Rumania

10. The reply is in the affirmative.

Spain

10. (*a*) The reply is in the affirmative.

(*b*) Yes, subject to adequate justification.

Sweden

10. On account of regulations prevailing in Sweden it does not seem possible for Sweden to enact provisions by which priority over other foreigners would be granted in respect of labour permits to members of families, residing abroad, of foreign workers employed in Sweden. With regard to the right of foreigners to remain in Sweden it may be mentioned that, with the exception of those for whom a visa is required, no special residence permit is required for foreigners who wish to remain in the country for a period not exceeding three months. When dealing with applications from relations of foreigners residing in Sweden for a residence permit for a longer period, the competent authority is in the habit of taking family relationships into consideration. It seems, however, inappropriate to provide explicitly for preferential treatment of members of a foreign family in this respect. There is no reason to introduce special rules for members of families as is suggested here.

SWITZERLAND

10. (*a*) and (*b*) It would be natural for the members of a migrant worker's family to be so treated that they could remain in, or re-establish, the family group. It would be satisfactory if the facilities mentioned under (*a*) and (*b*) could be the subject of a Recommendation in favour of the wife of the migrant worker and his children under age.

UNITED STATES OF AMERICA

10. Entrance to the United States without quota restriction is permitted to the alien wives and unmarried children of American citizens. Quota-preference is granted to the alien wives and unmarried children, the latter under 21 years of age, of aliens admitted to the United States for permanent residence.

11. Do you consider it desirable that the immigration country should waive the right to levy customs duties on the necessary tools which the recruited immigrant workers take with them ?

AUSTRALIA

Western Australia

11. No.

BELGIUM

11. Yes, in the case of really necessary tools which the emigrants take with them.

CANADA

Alberta

11. No.

Manitoba

11. Yes.

Saskatchewan

11. The answer is in the affirmative.

CHINA

11. The answer is in the affirmative.

DENMARK

11. See reply to question 10.

Egypt

11. Yes, in the case of simple and inexpensive tools being the property of the individual worker.

Finland

11. Same reply as for question 10.

France

11. The Government is not aware that difficulties have arisen in this connection.

India

11. Yes.

Netherlands

11. The reply is in the affirmative.

New Zealand

11. It is considered that the question of any relaxation of customs duties is one that might properly be the subject of a Recommendation.

Norway

11. Yes, in a Recommendation.

Poland

11. The tools, etc., which the immigrant brings with him should be exempt from customs duties.

Rumania

11. The reply is in the affirmative.

Spain

11. The reply is in the affirmative.

SWEDEN

11. The measure referred to here will as a rule be without practical effect. Hence, no rule in this respect should be laid down in the international regulations.

SWITZERLAND

11. From the same point of view as that adopted with regard to the preceding question, it appears desirable that the country of immigration should waive the right to levy customs duties, or reduce the rate of duty on the necessary tools, already used, which the immigrant workers take with them.

IV. — CONDITIONS OF EMPLOYMENT

§ 1. — EQUALITY OF TREATMENT

12. (1) Do you consider that the international regulations should stipulate that the principle of equality of treatment between national and foreign workers should be applied with regard to:

(*a*) conditions of work and, in particular, all matters relating to wages ?

(*b*) special employment taxes, dues or contributions, whether charged to the worker or to his employer ?

(*c*) admission to employment of:

(i) foreign workers authorised to reside in the country in that capacity ?

(ii) members of their families authorised to accompany or join them in the immigration country ?

(*d*) social insurance, by the application of the provisions concerning equality of treatment included in the international Conventions on social insurance ?

(*e*) the right to belong to trade unions ?

(*f*) legal enforcement of contracts of employment ?

(2) Should the principle of equality of treatment specified in (1) above be guaranteed:

(i) to all foreigners irrespective of nationality ?

***or* (second possibility)**

(ii) to nationals of Members which grant reciprocity ?

or (third possibility)

(iii) to nationals of any Member which ratifies the proposed Convention ?

AUSTRALIA

Western Australia

12. (1) (*a*) Yes.
(*b*) Yes.
(*c*) (i) Yes, after naturalisation.
(ii) As above.
(*d*) Yes.
(*e*) Yes.
(*f*) Yes.
(2) (i) Not to detriment of State's own nationals.
(ii) Yes.
(iii) No.

BELGIUM

12. (1) (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.
(*c*) The reply is in the affirmative.
(*d*) The reply is in the affirmative.
(*e*) The reply is in the affirmative.
(*f*) The reply is in the affirmative.
(2) (i) The reply is in the negative.
(ii) The reply is in the affirmative.
(iii) The reply is in the negative.

CANADA

Alberta

12.[1] (1) (*a*) Yes.
(*b*) No.
(*c*) (i) No.
(ii) No.
(*d*), (*e*) and (*f*) No reply is given.
(2) No reply is given.

Manitoba

12. (1) (*a*) Yes.
(*b*) Yes.

[1] The reply adds that all these are questions for the individual countries, States and Provinces to decide.

(*c*) (i) Yes.
(ii) Yes.
(*d*) Yes.
(*e*) Yes.
(*f*) Yes.
(2) (*i*) No.
(ii) Yes.
(iii) Yes.

Saskatchewan

12. (1) (*a*) to (*f*) The answer is in the affirmative.
(2) (i) The answer is in the affirmative.
(ii) The answer is in the negative.
(iii) The answer is in the negative.

China

12. (1) The answer is in the affirmative.

(2) The principle of equality of treatment specified in (1) above should be guaranteed to all foreigners irrespective of nationality.

Denmark

12. (1) The reply is in the affirmative, but equality of treatment with regard to admission to employment should be made to depend on the requirements of the local employment market.

(2) Subject to the above-mentioned reservation, equality of treatment should undoubtedly be secured to all foreigners irrespective of nationality.

Egypt

12. (1) (*a*) Yes, in respect of conditions of work; wages of foreign worker not to be inferior to those of national workers.
(*b*) Yes.
(*c*) This must depend on the economic situation of individual countries.
(*d*) Yes.
(*e*) Yes, in principle.
(*f*) Yes.
(2) To nationals of Members which grant reciprocity.

Finland

12. (1) The international regulations should stipulate that the principle of equality of treatment should be applied with regard to the points mentioned in these questions.

According to the Order of 1 April 1938 concerning the admission and residence of foreigners in Finland, a foreigner who wishes to work for remuneration must procure a labour permit. Such permits are granted only for a limited period (an exception is allowed to foreigners enjoying the right of asylum), and are valid only for the employment for which they are granted. As it does not seem possible at present to modify these provisions and as similar provisions are also in force in other countries, equality of treatment for foreign workers and their families with regard to admission to employment does not seem possible at present. In countries which receive foreign workers without requiring them to hold a labour permit for a particular employment, equality as regards admission to employment seems desirable.

(2) The point of view set forth under (ii) is recommended.

France

12. (1) The international regulations might perhaps state the principle of the advisability of equality of treatment with regard to conditions of work and wages; but even then such a recommendation should remain in very general terms.

On the other hand, it would be impossible to provide in an international instrument for equality of treatment with regard to admission to employment, special employment taxes, dues or contributions, and the right to belong to trade unions.

It is indispensable that the States concerned should retain complete freedom of action and decision in these various fields; such freedom might at the most be restricted in certain bilateral treaties, which the contracting States always retain the right to denounce.

Same reply as regards social insurance.

It should be emphasised very clearly that all matters regarding admission to employment (for either the workers themselves or members of their families) must be completely reserved and cannot be the subject of any precise undertaking.

(2) Equality of treatment can only be governed by bilateral agreements.

India

12. (1) (*a*) to (*f*) Yes; but these regulations need only stipulate that foreign workers should not be accorded less favourable treatment than national workers with regard to matters specified in these clauses.

(2) Though (i) may be the ideal, the Government of India will be content with (ii); but the principle should be not equality of treatment but treatment not less favourable than that accorded to national workers.

Netherlands

12. (1) (*a*), (*b*), and (*c*) (i) and (ii) The replies are in the affirmative.

(*d*) Social insurance legislation should cover all workers irrespective of nationality. The legislation of the Netherlands is based on this principle. The reply is therefore in the affirmative. See also the reply to question 18.

(*e*) In the opinion of the Netherlands Government this point should not be dealt with in international regulations. Under the law of the Netherlands the trade union organisations themselves decide the question as to the right to belong to trade unions. The public authorities have no say in the matter.

(*f*) The reply is in the affirmative.

(2) (i) The reply is in the negative except as regards social insurance, for which it is in the affirmative. Countries should, however, have the right to grant the subsidies, supplements or fractions of pensions payable out of public funds only to the nationals of Member States with which they have concluded a supplementary agreement to that effect. See also the reply to question 18.

(ii) The reply is in the affirmative. As regards social insurance, see (i) above.

(iii) The reply is in the negative.

New Zealand

12. (1) The New Zealand Government endorses the principle of equality of treatment between national and foreign workers in so far as the latter have been authorised to become resident in the country.

(2) A system under which equality of treatment is on a reciprocal basis is favoured.

Norway

12. (1) Yes, in the Convention.

(2) Yes, in the Convention, comprising all immigrant workers.

Poland

12. (1) (*a*) The principle of equality of treatment in respect of conditions of employment (safety, hygiene, hours of work, etc.) is generally recognised and applied, and there is no need to repeat the arguments justifying it. The application of this principle to wages is no less equitable. The payment of foreign workers at lower rates is not only an injustice, but may cause discontent both among the immigrants and among the national workers, who will regard immigration as a factor tending to depress the general national wage level. The payment of lower wages during the first period of employment of the immigrant, owing to his ignorance of local methods of work and his consequently lower output, should be restricted to a brief space of time and should apply only in cases in which the immigrant's output is actually lower than that of local workers. It should be borne in mind that in a number of bilateral agreements the principle of equality of treatment with respect to wages is recognised.

(*b*) The charging to foreign workers of special dues would be a direct violation of the principle of equality of treatment in respect of wages. The charging of dues to the employer because he has engaged foreign workers would have the same effect, though indirectly, since the employer would attempt to make good this expense by reducing

the immigrants' wages. For these reasons, no special dues should be charged for the employment of foreigners. The exemption of seasonal workers from taxation, a measure intended solely to avoid double taxation, cannot be regarded as a violation of the principle of equality of treatment.

(*c*) (i) In the case of foreign workers whose return to their country of origin is not expressly stipulated in the contract (such a stipulation is made, for instance, in the case of seasonal workers or specialists recruited for a particular piece of work), it must be remembered that on leaving home they reckon with the possibility of a long stay in the country of immigration, such a stay being moreover generally in accordance with the intentions of the authorities of the immigration country, which will have had the employment situation in mind when authorising the entry of foreign workers. Consequently, if the foreign worker fulfils the obligations he has undertaken when entering the *immigration country, he should be placed in the same position* as the national worker regarding admission to employment, which is his sole means of obtaining a livelihood. It is self-evident that there may be restrictions in respect of work of a secret character, such as that connected with national defence.

(ii) The problem of admission to employment for members of the foreign worker's family is most important from a material and from a moral point of view. As regards the material side, it must be remembered that the standard of living of a working-class family depends in general on the earnings not only of the husband or father but also of the other members of the family who are able to work. This remark applies more particularly to large families in which the children, as they grow up, can contribute their earnings to the budget of the family and thus help to satisfy the family's needs. As regards the moral side, there is no doubt that if young persons of an age suitable for employment are prevented from working, they will be in danger of falling into a bad way of life. The only means of preventing this would be to send the children back to their country of origin, a measure likely to break up the family. The separation of a child of 16 from its family is in every way undesirable, for the years spent at home at this time often give the young person's whole life a favourable turn. When both the material and the moral aspects of the question are borne in mind, it becomes clear that admission of members of the immigrant's family to employment is indispensable.

(*d*) Equality of treatment with regard to social insurance, by the application of the provisions concerning equality of treatment included in the international Conventions on social insurance, is also indispensable. But equality will only be achieved if residence in the country of origin is considered as equivalent to residence in the country of immigration for purposes of the award and payment of benefit to foreign workers and their dependants.

(*e*) Yes.

(*f*) Yes, there should be no discrimination owing to foreign nationality as regards the legal enforcement of contracts of employment. Further, as far as possible, any difficulties encountered by the foreign worker through not knowing the language of the country should be removed.

(2) (i) Yes, equality of treatment should be guaranteed to all foreigners without distinction of nationality.

Rumania

12. The Government agrees that the principle of equality of treatment between national and foreign workers should relate to:

(*a*) conditions of work and in particular wages;

(*b*) special employment taxes or contributions, whether charged to the worker or to his employer;

(*c*) admission to employment of foreign workers authorised to reside in the country during the period in which they are entitled to carry on their occupation and subject to statutory or other measures of supervision relating to the engagement of foreign workers;

(*d*) the statutory system of social insurance;

(*e*) the right to belong to trade unions;

(*f*) the right to legal enforcement of contracts of employment.

The principle of equality of treatment specified above should be guaranteed to nationals of Members which grant reciprocity.

Spain

12. (1) The international regulations should stipulate that the principle of equality of treatment between national and foreign workers should be applied with regard to conditions of work and in particular to all matters relating to wages, special employment taxes, dues or contributions, whether charged to the worker or to the employer or his agent, social insurance, the right to belong to trade unions, and the legal enforcement of contracts of employment.

(2) The principle of equality of treatment specified above should be guaranteed to all foreigners irrespective of nationality. The Government considers, however, that the adoption of this principle would meet with difficulties in practice and that therefore provision should be made for the application of this principle on a basis of reciprocity.

Sweden

12. (1) (*a*) The attainment of a desirable equality of treatment in this respect might be regulated through trade unions.

(*b*) Yes.

(*c*) It does not seem possible to secure to foreign workers, who are allowed to remain in the country, the same possibilities to receive employment as to nationals. In Sweden, the labour permit is usually limited to a certain trade, and in some cases also to a certain place. Further, it is always granted for a limited period with the possibility of subsequent limited extensions. The Swedish Government is of opinion that it should always have the right to refuse extension of a labour permit, if this is considered desirable in view of the conditions on the labour market. Under the circumstances we are unable to agree with the suggestions made under (*c*). Labour permits for

members of families should be applied for in the ordinary way, and should be treated in the same way as applications from other foreigners.

(*d*) Yes.

(*e*) According to Swedish opinion the right to belong to trade unions should not be regulated by legislation. In Sweden it lies with the competent trade union to determine whether it wishes to admit foreign workers to membership or not.

(*f*) Working conditions in Sweden, particularly in industry, are regulated by collective agreements. If foreign workers obtain labour permits in a trade in which conditions of work are regulated in this way, they receive wages in accordance with the collective agreements. As has been stated above, when applications for labour permits are examined, the authorities verify that the employer has offered the same wages as would have been paid to a Swedish worker. It does not seem to be necessary to adopt special provisions such as those suggested under (*f*); this question has already been regulated in Sweden.

(2) All foreigners who have been granted due permission to work.

Switzerland

12. (1) The principle of equality of treatment between national and foreign workers is already very widely applied in Switzerland in respect of the questions enumerated here; no distinction whatever is made between national and foreign workers as regards points (*a*), (*b*), (*e*) and (*f*). It should also be pointed out that equality of treatment as regards admission to employment is secured to foreign workers (and members of their families) who are authorised to reside in the country permanently in that capacity—i.e. who hold establishment permits. Further, Switzerland has ratified the Unemployment Convention and the Equality of Treatment (Accident Compensation) Convention.

(2) Though it is desirable for the international regulations to stipulate that equality of treatment between national and foreign workers should be guaranteed to all foreigners irrespective of nationality, or at least to nationals of States which have ratified the proposed Convention, practical considerations appear to militate, in respect of certain subjects, in favour of the solution formulated under 2 (ii), which leaves the way open for bilateral agreements; we are thinking here of points (*c*) and (*d*) in particular.

United States of America

12. With the exception of certain Federal appropriation measures and the attitude of some private employers, aliens and citizens are accorded practically equal treatment in the matter of employment.

§ 2. — Contracts of Employment

13. (1) In the event of the conclusion of a contract of employment between an employer, or an agent acting on his behalf, and a migrant worker before the latter has left the emigration country, do you consider that certain particulars should be compulsorily specified in the contract ?

(2) If so, should the following particulars be specified in all such contracts in addition to any other clauses:

(*a*) exact duration of the contract ?

(*b*) exact date on which, and place at which, the migrant worker is required ?

(*c*) method of meeting travelling expenses:

(i) for the outward journey ?

(ii) for the homeward journey at the end of the term of the contract, or prior to its expiry if the denunciation or breach of the contract is not due to the fault of the worker ?

(iii) in general, for members of the worker's family authorised to accompany him or to join him in the immigration country ?

(iv) in particular, for such members of his family in the event of his death either in the course of the journey to the place of employment or during the period of his employment ?

(*d*) amount of any sums spent by the employer or his agents in connection with the recruitment, selection, transport, admission, placing or engagement of the worker or any other related operation, the repayment of which they are entitled to claim ?

(*e*) nature and extent of housing accommodation near the place of employment ?

(*f*) provision for maintenance of the worker's family in the country of origin, especially to prevent desertion of the family ?

(3) Is it desirable that contracts of this kind should be drawn up in, or translated into, the language of the worker as well as that of the employer ?

AUSTRALIA

Western Australia

13. (1) Yes.

(2) (*a*) to (*f*) Yes.

(3) Yes.

BELGIUM

13. (1) The reply is in the affirmative.

(2) (*a*) The reply is in the affirmative.

(*b*) The reply is in the affirmative.

(*c*) The reply is in the affirmative.

(*d*) The reply is in the affirmative.

(*e*) The reply is in the affirmative.

(*f*) The reply is in the affirmative.

(3) The reply is in the affirmative.

CANADA

Alberta

13. (1) Yes.
(2) (*a*) to (*f*) Yes.
(3) Yes.

Manitoba

13. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.
(*c*) Yes.
(i) Yes.
(ii) Yes.
(iii) Yes.
(iv) Yes.
(*d*) No.
(*e*) Yes.
(*f*) Yes.
(3) Yes.

Saskatchewan

13. (1) The answer is in the affirmative.
(2) (*a*) to (*f*) The answer is in the affirmative.
(3) The answer is in the affirmative.

CHINA

13. The answer is in the affirmative.

DENMARK

13. (1) The reply is in the affirmative.
(2) Yes, but the Government considers that the contract of employment should also contain the necessary clauses concerning the wages for the work offered.
(3) The reply is in the affirmative.

EGYPT

13. (1) Yes.
(2) Yes, for all sub-headings except (*f*).
(3) Yes.

FINLAND

13. (1) to (3) The reply to these questions is in the affirmative, but the points should be recommended as suitable for consideration in agreements between the countries concerned.

FRANCE

13. (1) It is most useful to determine in advance the particulars to be specified in contracts. This is, moreover, the procedure followed in France, since all contracts of this sort must be in conformity with a standard contract drawn up by the administration and communicated to every employer desiring to undertake recruitment. The authorisation itself is given only on submission of this form, duly filled in and signed by the employer.

(2) The provisions specified in paragraphs (*a*), (*b*), (ii) and (iii) already figure in most of the contract forms used in France. Paragraphs (i), (iv), (*d*), (*e*) and (*f*) seem either useless or difficult to enforce. The stipulation contained in paragraph (*f*), in particular, would appear unacceptable for any immigration country. The claims which the deserted family of an alien worker might make would fall within the domain of civil law, which confers on these families the same right to institute proceedings as is held by French families.

(3) The reply is in the affirmative.

INDIA

13. (1), (2) and (3) Yes.

NETHERLANDS

13. (1), (2)(*a*) (*b*) (*c*) (*d*) (*e*) and (*f*) and (3) The replies are in the affirmative.

NEW ZEALAND

13. Inclusion in contracts of service of information as set out in this paragraph is endorsed. It is desirable that the contracts be in the language of both parties.

NORWAY

13. (1), (2) and (3) The Government considers that the question of individual contracts should be settled by mutual agreements between the authorities of the States concerned.

POLAND

13. (1) Owing to the special character of the contracts concluded by migrant workers, it is indispensable that they should specify certain particulars in addition to the customary stipulations.

(2) (*a*) The exact duration of the contract and the means (if any) by which it may be prolonged must be specified in the contract. If a contract is concluded for an unspecified period, the method of termination and the notice to be given must be specified.

(*b*) Yes.

(*c*) (i) and (ii) It is absolutely necessary that the method of meeting travelling expenses for the outward journey and for the homeward journey in the cases referred to under (ii) should be specified in the contract.

(iii) If the employer formally undertakes to share in the travelling expenses of the family or to make the worker an advance to cover his family's travelling expenses, it is desirable that this should be specified in the contract.

(iv) This is a rarer case, and its mention in the contract is not indispensable.

(*d*) In conformity with the position adopted in answer to question 8, the Polish Government is opposed to charging the expenditure in question to the worker. However, if it were to be provided that the employer should stop a certain sum from the worker's wages as a guarantee that the terms of the contract will be complied with, and that this sum should be handed to the worker on expiry of the contract or on premature termination or breach not due to the worker's fault, the contract should exactly specify the total amount of the guarantee, the sum to be stopped from each pay, etc.

(*e*) If lodging is provided by the employer, the contract should contain stipulations on the subject. If not, it is desirable that the worker should be provided with information on the nature and extent of available housing accommodation, but it is not indispensable to mention this in the contract.

(*f*) The making of provision of this sort is most desirable. In cases where such provision is made, it should form an integral part of the contract, so that neither the employer nor the worker can evade compliance.

(3) The contract should be drawn up in the language of the emigration country and in that of the immigration country.

RUMANIA

13. The Draft Convention to be adopted by the Conference should stipulate that in the event of the conclusion of a contract of employment between an employer or an agent acting on his behalf and a migrant worker before the latter has left the emigration country, the contract should, in addition to other clauses, compulsorily specify the items mentioned in point 13 of the Questionnaire.

It is desirable that contracts of this kind should be drawn up in or translated into the language of the worker as well as that of the employer.

SPAIN

13. (1) Yes, including the amount of the wages and the character of the work.

(2) In addition, the contract of employment should specify its exact duration, the exact date on which and the place at which the migrant worker is required, the method of paying wages (in the currency in circulation in the country, to the exclusion of " canteen vouchers "), the method of meeting travelling expenses for the outward or homeward journey, the amount of compensation in case of termination of contract not due to the fault of the worker, the total sum spent by the employer or his agent for any operation the repayment of which he is entitled to claim, the extent of housing accommodation in a suitable place, the medical assistance provided, the application, in the best way, of the provisions governing industrial accidents, and the measures for the maintenance of the worker's family in the country of origin in case of desertion by the worker.

(3) Yes. In addition, contracts of this kind should be endorsed by the consul of the worker's country of origin accredited in the immigration country and competent for the district concerned.

Sweden

13. (1) and (2) In so far as collective agreements in force do not render it unnecessary, particulars referred to in questions (2) (*a*) to (*f*) should be specified in the contract of employment.

(3) Yes, but this is a matter of course, and it is perhaps unnecessary to include a provision in this respect in the international regulations.

Switzerland

13. (1), (2) and (3) The questions under this head relate to points of detail, the object being to give sufficient guarantees, through a contract, to the migrant worker before he leaves the emigration country. At an advanced stage in international legislation concerning migrant workers, regulations of this sort might well have the happiest results. It would perhaps be premature to prescribe the terms of such regulations in a Convention or Recommendation at present. With this preliminary reservation, an affirmative reply can be given to the various points dealt with under (2).

United States of America

13. See answer to question 2 (2).

§ 3. — Labour Inspection

14. (1) Do you consider that, with a view to supervising the conditions of work of migrants in the immigration country when the number of migrants is considerable, provision should be made for:

(*a*) the establishment in the labour inspectorate or any other similar administrative department of the immigration country of a special inspectorate or service ?

or alternatively

(*b*) specialisation of labour inspectors or other officials whose duty it is to supervise the conditions of work of migrant workers ?

(2) If one or other of the systems of supervision mentioned under (1) above is in operation, should collaboration be organised between the administrative services in question and voluntary societies for the assistance of migrants which have been approved by the authorities ?

AUSTRALIA

Western Australia

14. (1) (*a*) No.
(*b*) Yes.
(2) Yes.

BELGIUM

14. (1) (*a*) No. The same rules should apply to aliens as to nationals and therefore the former cannot be given special treatment.
(*b*) The reply is in the negative.
(2) The reply is in the affirmative.

CANADA

Alberta

14. (1) and (2) Yes.

Manitoba

14. (1) (*a*) Yes.
(*b*) Yes.
(2) Yes.

Saskatchewan

14. (1) (*a*) The answer is in the affirmative.
(*b*) The answer is in the negative.
(2) The answer is in the negative.

CHINA

14. The answer is in the affirmative.

DENMARK

14. (1) It should no doubt be left to the provisions of national laws or regulations to determine whether a special inspectorate should be set up to supervise the conditions of work of migrant workers.
(2) The reply is in the affirmative.

Egypt

14. (1) (*a*) or (*b*) Yes, for either according to convenience.
(2) Yes.

Finland

14. Alternative (1) (*a*) is recommended.

France

14. (1) Practical needs have obliged all States to establish a specialised supervisory service, which precisely on account of its functions has to be composed of employees with particular qualifications. It seems inadvisable to define, in the text of an international Convention, the administrative measures governing such a service. Indeed, whether the system is that of a special inspectorate forming part of the labour inspectorate or any other similar administrative department, or that of specialisation of labour inspectors, the distinction is strictly administrative in character and concerns the status of the officials in question much more than their powers.

It would therefore be sufficient to assert the need for a special supervisory service, and possibly to state that it should act under the authority of the Minister responsible for labour and social questions.

(2) Whatever the form chosen by States, it may be desirable to organise collaboration between these administrative services and voluntary societies, whether private or approved by the authorities, on condition that the States concerned retain complete freedom of decision in this respect. No express provision on the subject should therefore figure in a Convention.

India

14. (1) (*a*) Yes.
(2) Yes, if reliable voluntary societies are in existence or can be formed.

Netherlands

14. (1)(*a*) The reply is in the affirmative.
(*b*) In view of the reply to (*a*) the alternative question needs no reply.
(2) The reply is in the affirmative.

New Zealand

14. If equality of treatment is accorded to foreign workers then it would appear that a separate inspection service is unnecessary.

Norway

14. (1) Yes, as proposed under (*a*), as a Recommendation.
(2) Yes, as a Recommendation.

Poland

14. (1) (*a*) and (*b*) Yes, the Polish Government considers that it is advisable for special supervision to be exercised over the carrying out of contracts of employment relating to immigrants. The question whether this supervision shall be carried out by a special inspectorate or service or by one or more specialised officials depends entirely on the number of immigrants in the country concerned and on the likelihood of the number increasing.

(2) Yes, provided that the voluntary society which is to collaborate with the above-mentioned administrative service for the protection of the immigrants of a given nationality is chosen *in agreement* with the emigration country concerned.

The participation of the State concerned in the choice of the appropriate voluntary society is dictated by the wish to avoid undesirable influences such as might trouble social peace among the group of immigrants in question and entail consequences prejudicial to one or both of the States concerned.

Rumania

14. In the opinion of the Government, immigration countries should make provision for the specialisation of labour inspectors or other officials whose duty it is to inspect migrant workers (if a special inspectorate or service is unnecessary or cannot be set up) with a view to supervising the conditions of work of migrants when their number is considerable.

Collaboration should be organised between the administrative services in question and voluntary societies for the assistance of migrants which have been approved by the authorities.

Spain

14. (1) Such supervision should be exercised by the labour inspectorate or some other similar department subordinate to the inspectorate, or by special inspectors of the immigration country.

(2) The reply is in the affirmative.

Sweden

14. (1) The proposal to establish a special inspectorate within the labour inspection service or a special service with the duty of supervising the conditions of work of migrant workers seems to be superfluous from the Swedish point of view. Foreign workers in Sweden are subject to the same factory inspection as nationals. Provisions in this respect should not be made in a Convention or Recommendation.

(2) See the reply to question 14 (1).

Switzerland

14. (1) and (2) This question relates above all to the immigration countries affected by large-scale immigration movements, and does not call for special remark from Switzerland.

United States of America

14. No special system of labour inspection is provided in the United States for immigrants. The enforcement of labour standards in America is accomplished equally for all employees.

V. — REPATRIATION

15. (1) Do you consider that provision should be made in the international regulations that, if for reasons beyond his control the recruited worker fails to secure the employment for which he was engaged, the various costs of his repatriation (payment of dues, transport and maintenance charges up to the final destination, including transport of household belongings) and of that of any members of his family who may be with him should be met by the employer or the recruiting agent or any other party deemed to be legally liable in this respect under the law of the country in question ?

(2) If so, would it be desirable:

(*a*) for the costs of repatriation to be met out of a common guarantee fund ? and

(*b*) for this fund to be constituted out of premiums paid by employers who receive one or several foreign workers ?

Australia

Western Australia

15. (1) Yes.

(2) (*a*) Yes.

(*b*) Yes.

Belgium

15. (1) Yes, in cases where the employer or the recruiter is at fault.

(2) (*a*) It would be very useful to institute a common guarantee fund.

(*b*) Liability should rest with the person who is at fault.

CANADA

Alberta

15. (1) Yes.
(2) (*a*) and (*b*) Yes.

Manitoba

15. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.

Saskatchewan

15. (1) The answer is in the affirmative.
(2) (*a*) The answer is in the negative.
(*b*) The answer is in the negative.

CHINA

15. The answer is in the affirmative.

DENMARK

15. In most of the cases mentioned in the question, the employer or the recruiting agent will no doubt be responsible for the payment of these costs in accordance with the general principles applicable to contracts. As regards the cases in which the employer or the recruiting agent cannot be held liable, the Government is unable to put forward suggestions for lack of experience in the matter.

EGYPT

15. (1) Yes.
(2) (*a*) and (*b*) Either by the method suggested in (*a*) and (*b*), or by the payment of a deposit by the employer to the public authorities in the immigration country.

FINLAND

15. The payment of the costs of repatriation should be settled by agreements between the countries concerned or, failing such agreements, by contracts of employment or other agreements between employers and workers or their representatives. This method might be recommended in the Recommendation on the question.

FRANCE

15. (1) Repatriation free of charge can be contemplated only in the case of the first arrival in France of a foreign worker immediately

after his recruitment, and if it can also be proved that he was wrongly recruited. In any case, free repatriation can be contemplated only in cases where the worker lacks the occupational qualifications required. In every other case the individual himself, or the country of emigration, is responsible for any inability on the worker's part to meet his obligations.

Further, free repatriation can apply only to workers introduced on the basis of contracts, as was pointed out by the French Government representative during the discussion; he also stated that account must be taken of the fact that many aliens have arrived in France on their own initiative and have found work there.

In any case, the question concerns the immigration countries alone, and therefore becomes a question of a national character which cannot be dealt with in a Convention.

(2) Repatriation can only be at the expense of the employer or his representative.

India

15. (1) Yes.

(2) (*a*) and (*b*) Yes.

Netherlands

15. (1) The reply is in the affirmative.

(2) (*a*) and (*b*) The reply is in the negative.

New Zealand

15. The New Zealand Government is in agreement with the proposal.

Norway

15. (1) Yes, as a Recommendation.

(2) Yes, as a Recommendation in accordance with alternative (*a*); (*b*) does not arise.

Poland

15. (1) Yes, of course, but the Polish Government considers that the question is framed too narrowly. It therefore proposes to include provision for cases of premature dismissal of the immigrant, before expiry of the period provided in the contract on the basis of which he was recruited, when the termination is not due to the worker's fault, and when administrative provisions prevent him from seeking or taking new employment on the same basis as a national worker, or even—as is sometimes the case—oblige him to leave the country of immigration.

The Polish Government attaches great importance to the inclusion in the international Convention of the principle laid down in this question and extended as indicated above.

(2) The question of financial responsibility regarding the costs of repatriation referred to under (1)—except the cases covered by previous

questions (deposits)—should remain within the exclusive competence of the country of immigration.

RUMANIA

15. (1) and (2) The reply is in the affirmative.

SPAIN

15. (1) The reply is in the affirmative.

(2) The reply is in the affirmative.

SWEDEN

15. (1) The employer should perhaps for practical reasons always be held responsible for the costs in question. In case, however, a third party is to blame for the fact that the worker has failed to secure the employment, the employer should, of course, have the right to recover damages from this third party.

(2) A common guarantee fund would to a certain extent encourage carelessness and is therefore not acceptable. If a union of employers voluntarily wishes to establish such a fund, that is a different matter.

SWITZERLAND

15. (1) In view of the manner in which the problems of the repatriation of migrant workers arise in Switzerland, it hardly appears possible for the Government to reply in the affirmative to this question at present.

(2) This question does not apply, in view of the negative reply to 15 (1).

UNITED STATES OF AMERICA

15. See answer to question 2 (2).

Where aliens are excluded from the United States under the immigration laws the expense of their return is met either by the transportation company or by the United States Government.

Repatriation under the immigration laws of the United States may be one of three cases: First, exclusion; second, expulsion; and third, voluntary removal. When exclusion occurs, in some instances the immigrant is reimbursed by the transportation company for the cost of his transportation from the point of his departure from his country to the port of arrival in the United States. When a deportation occurs and an alien is expelled, the alien, under existing law, is not entitled to reimbursement for the money expended for his trip to the United States, although the cost of his removal from the country is borne either by the Government, or in some instances by the transportation company which brought him to this country. In voluntary removals from the United

States, referred to in question 3 (2), the cost of return transportation is met by the Government of the United States. The alien, however, is not entitled to reimbursement for the money which he expended in coming to this country. (Sections 18, 20 and 23, Immigration Act of 5 February 1917.)

16. (1) Do you consider that the international regulations should include an obligation on the part of the country of residence not to expel regularly admitted foreign workers or their families for reasons connected with their lack of means or with the employment situation, except in agreement with the country of emigration ?

(2) If your reply to question 16 (1) is in the negative, do you consider that the international regulations should include an obligation on the part of the country of residence not to expel regularly admitted foreign workers or their families for reasons connected with their lack of means or with the employment situation, unless:

(*a*) the worker has been resident in the country for not less than a period of time fixed by the international regulations (would you agree that this period should be five years, or if not what other period would you suggest) ?

(*b*) the competent authority has satisfied itself that the worker has exhausted all his rights to unemployment insurance benefit ?

(*c*) the competent authority has satisfied itself that:

(i) the worker has received due notice, giving him reasonable time, in particular, to dispose of his property ?

(ii) suitable arrangements have been made for the transport of the worker and his family ?

(iii) any other necessary arrangements have been made so that the worker and his family shall receive every consideration called for in the circumstances (please indicate the provisions which you consider should be included in the international regulations on this point) ?

(*d*) the competent authority has satisfied itself that the worker will be paid the whole cost of his repatriation and that of his family, including the cost of transport of his household belongings, to the final destination, or, if this is not the case, will itself undertake this payment ?

AUSTRALIA

Western Australia

16. (1) No.

(2) (*a*) Yes.

(*b*) Yes.

(*c*) (i) Yes.

(ii) Yes.

(iii) Yes. (General.)

(*d*) Yes.

BELGIUM

16. (1) The reply is in the negative.

(2) (*a*) At least five years.

(*b*) The reply is in the affirmative.

(*c*) The reply is in the affirmative.

(*d*) The reply is in the affirmative.

CANADA

Alberta

16. (1) No.

(2) (*a*) No.

(*b*) Yes.

(*c*) Yes.

(*d*) Depending upon the circumstances in each case.

Manitoba

16. (1) Yes, if admittance to country has complied with regulations pertaining thereto.

Saskatchewan

16. (1) The answer is in the negative.

(2) (*a*) The answer is in the affirmative with a ten-year period instead of five years.

(*b*) The answer is in the affirmative.

(*c*) (i) The answer is in the affirmative.

(ii) The answer is in the affirmative.

(iii) The answer is in the affirmative.

(*d*) The answer is in the affirmative.

CHINA

16. (1) The answer is in the affirmative.

DENMARK

16. (1) The reply is in the negative. Compare Section 2 of the Danish Aliens Act, under which foreigners who are not entitled to State relief in Denmark and have no adequate means of subsistence must be deported or expelled by police measures as soon as possible.

(2) (*a*) to (*c*) The Government agrees that regularly admitted foreign workers should be treated with some consideration in the matter of deportation. Nevertheless—apart from the case of migration movements organised in special conditions—a Government must, as indicated in the reply to question 12, make reservations with regard to the require-

ments of the local employment market. Similarly, it should no doubt be left to national laws or regulations to determine the conditions under which an extended right of residence might be granted to a foreigner who finds it necessary to have recourse to public assistance.

(*d*) The reply to the question is in the affirmative, but the Government points out that, according to Danish practice, foreigners are transported at public expense only to the frontier of their country of domicile.

EGYPT

16. (1) No.

(2) (*a*) Workers resident in a foreign country for 5 years or more have more right to be protected against expulsion than newcomers. We suggest that short-timers should be liable to expulsion more easily.

(*b*) Yes.

(*c*) (i), (ii) and (iii). Yes.

(*d*) This is an excessive responsibility on the country of residence.

FINLAND

16. It should be recommended that the question should be regulated by agreements between the countries concerned, in which the principles mentioned under (2) might be taken into consideration.

FRANCE

16. (1) This point can *in no case* be included. It should indeed be emphasised with great firmness that no provision of this character can figure in a Draft Convention submitted to France.

In no case can the country of residence undertake not to expel regularly admitted foreign workers for reasons connected with their lack of means or with the employment situation.

(2) Even in the attenuated form in which the above question is reintroduced here, no favourable reply can be given to it. None of the privileged categories in question can be approved, and no restriction on the freedom of decision of the country of residence can be contemplated or figure in any form whatever in a Convention.

Consequently, none of the cases figuring in (*a*), (*b*), (*c*), or (*d*) can be accepted. At most, only a Recommendation in favour of giving the worker to be repatriated, as far as possible, a reasonable period in which to dispose of his property might be accepted.

It should be pointed out that in any case there has never yet been in France an instance of repatriation against the will of the person concerned for reasons connected with the employment situation. Nevertheless, a formal undertaking on the subject cannot be given.

INDIA

16. (1) Yes.

(2) Does not arise.

NETHERLANDS.

16. (1) The reply is in the negative.

(2) (*a*) and (*b*) The reply is in the negative.

(2) (*c*) The reply is in the affirmative.

(2) (*d*) The reply is in the affirmative except in cases where the worker is repatriated against his will.

NEW ZEALAND

16. It is suggested that if equality of treatment is accorded to foreign workers admitted to a country this provision is unnecessary.

NORWAY

16. (1) Yes, as a Recommendation.

(2) The question does not arise.

POLAND

16. (1) Yes. The principle of not expelling from the country of immigration legally admitted workers who for various reasons (unemployment, sickness, etc.) have no work is one of the Polish Government's essential claims, and the Government desires to see it figure in the international Convention.

(2) The answer to point (1) being in the affirmative, point (2) (*a*)-(*d*) no longer applies.

The Polish Government considers that an immigrant worker who has helped by his labour to increase the national wealth of the country of immigration (which he has entered legally, transferring thither his domicile, and in some cases his family, from a native land often far distant), and who has made the necessary effort to adjust himself to new conditions of life, is entitled, in all justice, not to be re-transplanted against his will, unless he has committed acts which involve, for all foreigners alike, the penalty of expulsion.

RUMANIA

16. The Government agrees with the majority of the proposals contained in the alternative text in this point of the Questionnaire, but it proposes that the question should be made the subject of a Recommendation.

SPAIN

16. (1) Yes, an obligation of this sort should be included unless the right to repatriate the workers has been agreed beforehand or unless

the establishment of the worker in the country of residence does not exceed a specified period (five years, for example), or unless the competent authority has satisfied itself that the worker has exhausted all his rights to unemployment relief.

(2) The replies to these questions are given above. In any case, suitable arrangements should be made to ensure that the transport of the worker and his family is carried out in the desired conditions; the competent authorities should always ensure that, by whatever method, the worker is paid the whole costs of his repatriation. The international regulations should contain a clause requiring the special inspection authorities mentioned in question 14 (1) to see that the worker and his family receive humane treatment in case of forced departure from the country of residence.

Sweden

16. The competent authority cannot very well give up its right to expel foreign workers or their families for the reasons stated here. Every reasonable consideration should, however, be shown repatriated workers in such cases.

Switzerland

16. (1) Here again Switzerland could hardly adhere to international regulations providing for an obligation on the part of the country of residence not to expel foreign workers for reasons connected with their lack of means or with the employment situation, unless the right to repatriate the workers had been agreed upon between this country and the country of emigration.

(2) (*a*) The obligation not to expel any foreigner, irrespective of nationality, for the above-mentioned reasons, provided the person concerned has resided in the country for a period to be determined, is hardly conceivable. On the other hand, the nationals of several States may, on the strength of bilateral agreements based on the principle of reciprocity, lay claim in Switzerland to permits for permanent establishment with no reservation regarding engagement in economic activity. A Recommendation tending to secure generalisation of such agreements would be desirable.

(*b*) and (*c*) (i) As a general rule, the expulsion, for the above-mentioned reasons, of foreign workers resident in Switzerland is not ordered without due notice given in advance. Such workers are also entitled to use an appeal procedure which gives them every necessary guarantee. A Recommendation to this effect would also be desirable.

(ii) The reply is in the negative.

(iii) The reply is in the negative.

(*d*) The reply is in the negative.

United States of America

16. The immigration law now requires the exclusion of persons likely to become a public charge, and the deportation of any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing.

17. When migrant workers and members of their families who have retained the nationality of their country of origin return to that country, do you consider that the said country should:

(*a*) undertake that the scope of its various measures for poor relief and unemployment relief and for promoting the re-employment of the unemployed will be extended to cover such repatriated workers by exempting them from fulfilment of conditions as to previous residence or employment in the country or locality ?

(*b*) waive the right to impose customs duties on the things which are in daily use by the repatriated worker, such as tools, clothes, bicycles, household belongings ?

AUSTRALIA

Western Australia

17. (*a*) Yes.
(*b*) No.

BELGIUM

17. (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.

CANADA

Alberta

17. (*a*) Yes.
(*b*) No.

Manitoba

17. (*a*) Yes.
(*b*) Yes.

Saskatchewan

17. (*a*) The answer is in the negative.
(*b*) The answer is in the affirmative.

CHINA

17. The answer is in the affirmative.

DENMARK

17. (*a*) It is natural that migrant workers, when they return to the mother country, should be treated on the same footing as other nationals in the cases mentioned in this question. This being so, it will no doubt

be difficult to make an exception in the case of the special conditions concerning residence or employment which, even for such returning migrants, must be satisfied as a condition of obtaining certain rights. For example, a certain period of employment may be required as a condition for the receipt of benefit from the recognised unemployment funds.

(*b*) The reply is in the affirmative.

EGYPT

17. (*a*) Yes.

(*b*) Yes.

FINLAND

17. The reply is in the affirmative, but the point should only be recommended to each country.

FRANCE

17. The two suggestions figuring in this question appear to be based on humanitarian considerations and call for a favourable reply. It would be highly desirable that repatriated persons returning to their country of origin should be covered by certain measures of public relief or re-employment, and that they should be able to return to their country without having to pay the customs duties imposed on ordinary travellers.

INDIA

17. (*a*) and (*b*) Yes.

NETHERLANDS

17. (*a*) and (*b*) The reply is in the affirmative.

NEW ZEALAND

17. Both these proposals appear to be reasonable in respect of endorsed migrants.

NORWAY

17. (*a*) and (*b*) Yes, as a Recommendation.

POLAND

17. When migrant workers and members of their families who have retained the nationality of their country of origin return to that country, the authorities of the said country should:

(*a*) permit them, in case of need, to benefit by social assistance and unemployment relief under the same conditions as other citizens, exempting them from fulfilment of any conditions as to previous residence in the country or locality in which they apply for assistance; this does not cover workers who emigrated illegally;

(*b*) exempt from customs duties the things daily used by the repatriated persons; this does not cover seasonal workers or workers who leave for a brief period, if the things they have acquired in the foreign country were not strictly indispensable for their stay in that country.

RUMANIA

17. The reply is in the affirmative.

SPAIN

17. (*a*) and (*b*) On return to their country of origin, workers should be given the benefit of the various measures for poor relief and unemployment relief, and the country of origin should waive its right to impose customs duties on all personal property and tools which these workers bring with them.[1]

SWEDEN

17. (*a*) Yes, normally.
(*b*) See the reply to question 11.

SWITZERLAND

17. (*a*) and (*b*) If given the form of a Recommendation, these proposals might be of real help in creating a better and more equitable position for migrant workers on their return to their country of origin.

UNITED STATES OF AMERICA

17. No special handicap is imposed by Federal laws in this regard. Local laws and regulations vary considerably within the country.

VI. — BILATERAL AGREEMENTS

18. (1) Do you consider it desirable that the International Labour Conference should recommend the conclusion of special agreements between the countries directly concerned regarding the recruiting, placing and conditions of labour (equality of treatment) of migrant workers ?

[1] Spanish legislation regulates in detail the question of repatriation of Spanish emigrants in needy circumstances, both as regards their transport, and as regards assistance on arrival and transfer to their place of origin. It also regulates accident insurance during the oversea journey. The establishment of a large anti-tuberculosis sanatorium and a school of vocational retraining for indigent emigrants is under consideration, as also the introduction of a system of insurance against *accidents* (death or incapacity for work incurred during emigration) and *non-adaptation* in the country of immigration.

(2) Should the International Labour Conference recommend that the above-mentioned special agreements should deal with:

(*a*) supply of information to migrant workers and exchange of information between the competent Government departments ?

(*b*) repression of unauthorised and in particular of misleading propaganda ?

(*c*) issue of certificates and identification papers which migrant workers are required to obtain, and recognition in either country of the validity of such documents issued by the other as well as of contracts of engagement of migrant workers concluded in the other country ?

(*d*) methods of recruiting, introducing and placing workers of either of the two countries emigrating to the other ?

(*e*) means of preventing the separation of families or the desertion of their families by migrant workers, and facilities for reuniting families or for securing that heads of families in one country carry out their legal obligations to support their dependants in the other country ?

(*f*) (i) in general, facilities needed for enabling migrant workers to take any sums that they may require out of the country of emigration and to transfer their savings from the country of residence to the country of origin ?

(ii) in particular, adoption in both cases of the most favourable exchange rate for the transfer of these sums or savings ?

(*g*) procedure governing the repatriation of migrant workers and their families, and methods of covering the cost thereof ?

(*h*) guarantees under which nationals of one of the contracting States residing in the other may be recruited by undertakings situated in territories outside the latter State but placed under its sovereignty or administration ?

(*i*) settlement of pension rights of migrant workers under old-age, invalidity and survivors' insurance in case the maintenance of those rights is not otherwise provided for by the States concerned ?

AUSTRALIA

Western Australia

18. (1) Yes.
(2) (*a*) to (*i*) Yes.

BELGIUM

18. (1) The reply is in the affirmative.
(2) (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.

(*c*) The reply is in the affirmative.
(*d*) The reply is in the affirmative.
(*e*) The reply is in the affirmative.
(*f*) The reply is in the affirmative.
(*g*) The reply is in the affirmative.
(*h*) The reply is in the affirmative.
(*i*) The reply is in the affirmative.

CANADA

Alberta

18. (1) Yes.
(2) (*a*) to (*i*) Yes.

Manitoba

18. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.
(*c*) Yes.
(*d*) Yes.
(*e*) Yes.
(*f*) (*i*) Yes.
(ii) Yes.
(*g*) Yes.
(*h*) Yes.
(*i*) Yes.

Saskatchewan

18. (1) The answer is in the affirmative.
(2) (*a*) to (*i*) The answer is in the affirmative.

CHINA

18. The answer is in the affirmative.

DENMARK

18. (1) Yes, in a Recommendation.
(2) The reply is in the affirmative.

EGYPT

18. The suggested details of special agreements which might be recommended by the Conference to countries desirous of concluding bilateral agreements regarding migrant workers are obviously of great

interest and value, but we consider that it is sufficient to bring them by circular to the notice of all States Members of the Organisation. States wishing to conclude bilateral treaties concerning migrant workers will select the recommendations which suit them. Most of the principles mentioned under heading VI are likely to form part of any Convention or Recommendation adopted.

Finland

18. (1) Seems desirable.

(2) Seems desirable.

France

18. (1) It is indeed desirable that special agreements should be concluded between the countries directly concerned regarding the recruiting, placing, and conditions of labour of migrant workers. A Recommendation might with advantage be adopted on this subject, provided it did not specify the actual provisions to figure in these bilateral agreements, which depend directly on the conditions special to each State, the considerations governing its emigration and immigration policy, and, lastly, certain motives of expediency with regard to which the State should retain full freedom of decision.

(2) In view of the above remarks, it appears undesirable to include in the text of a Convention an enumeration of the special agreements which might govern the different points specified in this question.

Furthermore, these points repeat most of the matters with which the Questionnaire deals. It would appear preferable to keep to a general draft which would take the form of a Recommendation and would merely advise the adoption of agreements on the different points covered by the Questionnaire.

India

18. (1) Yes.

(2) (*a*) Yes.

(*b*) Yes.

(*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*) Yes.

Netherlands

18. (1) The reply is in the affirmative.

(2) (*a*) (*b*) (*c*) (*d*) (*e*) (*f*) (*g*) and (*h*) The reply is in the affirmative.

(2) (*i*) The reply is in the affirmative. It would be desirable as far as possible to urge Member States to ratify Convention No. 48. In the opinion of the Netherlands Government social insurance questions should not be dealt with by regulations concerning migration, etc. They should be dealt with in a special Convention concerning social insurance. This reply also holds good for question 12 (1) (*d*).

New Zealand

18. The conclusion of bilateral agreements between countries concerned in recruiting and receiving migrant workers is regarded as a desirable course of action.

Norway

18. (1) The reply is in the affirmative.

(2) Yes, but it is assumed that the subject mentioned under (*b*) will be dealt with in the Convention.

Poland

18. (1) Yes. The Polish Government considers it desirable that the International Labour Organisation should recommend the conclusion of special bilateral agreements between the emigration and immigration countries concerned, quite apart from the possible conclusion of a general Convention; a general Convention, even the most satisfactory, cannot make provision for many details, some of them important, which arise out of the needs and local requirements of the different countries.

(2) It is therefore desirable that the Recommendation in question should contain a standard bilateral agreement (" standard agreement ") which would include all the points (*a*) to (*i*) enumerated in this question.

Rumania

18. The reply is in the affirmative.
This question should be the subject of a Recommendation.

Spain

18. (1) The reply is in the affirmative.

(2) Yes, special agreements should regulate all such matters.

Sweden

18. As has already been stated in the reply to question 1 we are of opinion that the intended international regulations—in the form of a Recommendation—should be supplemented by agreements concluded by States between which there is a large migration movement. The contents of such agreements are of course bound to vary according to varying conditions in different cases. The subjects indicated in the points under (2) seem as a rule worthy of consideration in the conclusion of such agreements.

SWITZERLAND

18. (1) and (2) The conclusion of bilateral agreements on these points may be of major interest to States which engage in an active immigration or emigration policy; they are less necessary for States like Switzerland which are not affected by collective migration movements. While Switzerland does not consider itself able to give an opinion at this stage on each of the questions included in this chapter, it realises that a Recommendation of the International Labour Conference on these matters might have satisfactory results.

UNITED STATES OF AMERICA

18. See answer to question 1.

19. (1) Do you consider that the International Labour Conference should also recommend the conclusion of agreements between the countries directly concerned for determining a procedure of co-operation in regard to the recruiting, placing and conditions of labour (equality of treatment) of migrant workers ?

(2) Should the questions of procedure that should be dealt with in such agreements include:

(*a*) establishment of standard forms of application and of standard contracts to be used in engaging workers of one country with a view to their employment in the other country ?

(*b*) fixing in advance of quotas of workers of one country to be admitted into the territory of the other country in any one year or season ? If so, should the quotas be determined for different classes according to sex, age and occupation ?

(*c*) co-operation of the countries of immigration and emigration with a view to the selection and recruitment of migrant workers in the country of emigration and with a view to the protection of their interests in the country of immigration, and statement of the conditions in which this co-operation should take place ?

(*d*) periodical meetings of a mixed committee of representatives of the emigration and immigration countries for considering the enforcement or adaptation of proposals or measures for recruiting, introducing, placing, employing, protecting, and, if necessary, repatriating migrant workers and their families ?

AUSTRALIA

Western Australia

19. (1) Yes.
(2) (*a*) to (*d*) Yes.

BELGIUM

19. (1) The reply is in the affirmative.

(2) (*a*) The reply is in the affirmative.
(*b*) The reply is in the affirmative.
(*c*) The reply is in the affirmative.
(*d*) The reply is in the affirmative.

CANADA

Alberta

19. (1) Yes.
(2) (*a*) to (*d*) Yes.

Manitoba

19. (1) Yes.
(2) (*a*) Yes.
(*b*) Yes.
(*c*) Yes.
(*d*) Yes.

Saskatchewan

19. (1) The answer is in the affirmative.
(2) (*a*) to (*d*) The answer is in the affirmative.

CHINA

19. The answer is in the affirmative.

DENMARK

19. (1) Yes, in a Recommendation.
(2) The reply is in the affirmative.

EGYPT

19. Yes, but see answer to 18.

FINLAND

19. (1) The reply is in the affirmative.
(2) The reply is in the affirmative.

FRANCE

19. (1) For the same reasons, it would appear undesirable to recommend the conclusion of agreements between the countries concerned for determining a procedure of co-operation in regard to recruiting, placing, and conditions of labour.

(2) The above reply also determines the reply to this question; the inopportune character of such a clause is confirmed.

The first paragraph alone could be retained in the form of a Recommendation. It might be specified that the establishment of standard contracts for the engagement of alien workers is desirable. The three other points figure in certain agreements already concluded, but are the exclusive result of the policy adopted by the States concerned, and could in no case figure as an obligation in the text of a general Convention.

The example of the fixing in advance of quotas of workers is conclusive in this respect, and shows clearly the danger of a stipulation under which, in a period of economic uncertainty, the size of quotas would be fixed for a whole year or even for a season, as well as the composition of these quotas in respect of occupation, age or sex.

The questions of selection and recruitment have, moreover, already been examined above. As regards the periodical meeting of a mixed committee of representatives of the two contracting countries for considering the enforcement or adaptation of immigration proposals, this again is a question of practical expediency in respect of which the States concerned must retain their full freedom of action.

To sum up, the various points concerning the conclusion of bilateral agreements could only be included in a Recommendation, which should be formulated in very general terms.

INDIA

19. (1) Yes.

(2) (*a*) Yes.

(*b*) Yes, where circumstances require.

(*c*) and (*d*) Yes.

NETHERLANDS

19. (i) The reply is in the affirmative.

(2) (*a*) The reply is in the affirmative.

(*b*) The reply is in the negative.

(*c*) The reply is in the affirmative.

(*d*) In the opinion of the Netherlands Government regular consultation between the authorities concerned in the immigration and emigration countries should be recommended.

NEW ZEALAND

19. This question also appears to be one calling for bilateral agreements.

NORWAY

19. (1) and (2) Yes, but the Government considers that the scope of such mutual agreements should be determined in each individual case.

POLAND

19. (1) and (2) Yes. The Polish Government has no reservation to make concerning the establishment, between the States concerned, of a procedure of co-operation for the matters specified under (2), all the more so because Poland has already adopted a procedure of this sort.

RUMANIA

19. The reply is in the affirmative.
This question should be the subject of a Recommendation.

SPAIN

19. (1) The reply is in the affirmative.

(2) The procedure of co-operation should cover all such matters. The quotas of workers should be fixed for one year in advance and for the different classes of workers. It would be advisable to secure co-operation between the countries of immigration and emigration with regard to the matters mentioned in (*c*) of the present question. The periodical meetings referred to in (*d*) might be somewhat difficult to arrange, and this idea might be abandoned if special agreements were concluded to regulate all such matters in a detailed manner.

SWEDEN

19. Yes, the Recommendation should include points corresponding to the questions set forth here.

SWITZERLAND

19. (1) and (2) Same reply as to question 18.

UNITED STATES OF AMERICA

19. See answer to question 1.

CHAPTER II

SURVEY OF THE GOVERNMENTS' REPLIES

General Replies

(Replies on pp. 1 to 5)

Several Governments made only general statements in reply to the Questionnaire.

Estonia states that it is in principle in favour of a Draft Convention but as emigration and immigration are insignificant in that country it does not consider that it can furnish replies to the questions. The Canadian Provincial Government of Ontario is also in favour of a Draft Convention but considers that the question is within the competence of the Dominion Government rather than a Provincial Government.

Iraq, Ireland, Siam, the Union of South Africa and Turkey state that they cannot reply to the Questionnaire in detail on the ground either that regulations of the kind proposed are inapplicable or that no such regulations are necessary in the country in question. They do not, however, raise any objection to the adoption of a Draft Convention if other countries deem it desirable.

The United States of America appreciates the effort of the International Labour Organisation to establish reasonable standards and facilities for the workers who migrate from one country to another; it replies to the various questions by a statement of its own laws, practices and experience; but states that the method of recruiting immigrant workers with which the Questionnaire is largely concerned is not permitted under the laws of the United States; and adds that it does not expect to participate in the discussions or in the formulation of bilateral agreements on this subject.

On the other hand, the Dominion Government of Canada and the Government of Great Britain consider that the matters dealt with in the Questionnaire are not applicable to the conditions prevailing in those countries and, in view of the great importance of the refugee problem at the present time, that action looking to the adoption of a Draft Convention should be deferred for the present (Canada) or that any remedial measures found to be needed for migrant workers should be left to be dealt with by bilateral agreements based on local conditions (Great Britain).

I. — Form of the International Regulations

Question 1 (replies on pp. 6 to 10)

In question 1 Governments were asked whether they considered it desirable that the International Labour Conference should adopt a Draft Convention concerning the recruiting, placing and conditions of labour (equality of treatment) of migrant workers; whether the Draft Convention should be supplemented by one or more Recommendations; and if so which points they considered should be treated in a Draft Convention and which points in a Recommendation.

In addition to the statements analysed above, 19 replies have been received to this question. Sweden, while considering that the international regulations might most suitably take the form of a Draft Convention, concludes that in view of the fact that conditions are very different within different countries the Conference will be well advised in present circumstances to limit the regulations to a Recommendation dealing approximately with the subjects referred to in the Questionnaire. All the other Governments (Belgium, China, Denmark, Egypt, Finland, France, India, the Netherlands, New Zealand, Norway, Poland, Rumania, Spain and Switzerland, as well as Western Australia and the Canadian Provinces of Alberta, Manitoba and Saskatchewan) which have replied to the Questionnaire express themselves in favour of a Draft Convention supplemented by one or more Recommendations.

As to the points which should be included in a Draft Convention and those which should be included in a Recommendation, a number of indications are given in the replies of Governments to the third paragraph of question 1.

Denmark, France and Spain express the view that the Draft Convention should be confined to questions of general principle and the Recommendations to other questions.

Belgium considers that the points which should be dealt with in a Recommendation rather than in a Convention include recruitment, placing and repatriation (i.e. Chapters III and V of the Questionnaire). Egypt is in favour of including Chapters II and III in a Draft Convention and Chapters IV and V in a Recommendation. Finland suggests that questions 2 (1), 2 (2), 3 (1) and 12 (1) should be included in a Draft Convention. India proposes questions 2, 3, 4, 5 (1), 6, 7, 8, 9 (1) and (2), 12 (1), 12 (2) (ii), 13, 14, 15 (1) and 16 (1) for the Draft Convention. The Netherlands thinks that questions 2 (1), 2 (2), 3 (1) and 6 (1) might be included in a Draft Convention. Norway states that the Draft Convention should contain provisions dealing with unauthorised and misleading propaganda and general provisions establishing immigrants' right to equality of treatment as regards wages, conditions of work and social rights. Poland considers that the points suitable for a Draft Convention are 2, 5 (1), 6 (1), 12 (1), 15 (1), 16 and 17 (*a*). Rumania thinks that the Recommendation should deal in particular with the points mentioned in questions 16 (2), 18 and 19.

Switzerland says that Chapter II and question 12 (1) (*a*, *b*, *e* and *f*) might provide the subject matter for a Draft Convention.

To sum up, 29 replies have been received. Of these, 15 are in favour of a Draft Convention supplemented by one or more Recommendations, and four from Canadian Provincial Governments and one from an Australian State Government are also in favour of a Draft Convention supplemented by one or more Recommendations; one Government is in favour of a Recommendation and not of a Draft Convention, six refrain from answering the Questionnaire in detail but raise no objection to the adoption of a Draft Convention if other Governments consider it desirable and two are opposed to the question being dealt with at the present time. As to the division of the questions between the Draft Convention and the Recommendations, only 12 Governments have given indications in reply to question 1; of these 9 give more or less precise indications and three state that the Convention should deal with questions of general principle and the Recommendation with other questions. In preparing the texts the Office has taken account of these indications to the fullest possible extent.

II. — Supply of Information and Assistance to Migrant Workers

Questions 2-4 (replies on pp. 10 to 23)

Supervision of Propaganda

Question 2

By question 2, paragraph 1, Governments were asked whether they considered that the international regulations should provide that all unauthorised and, in particular, misleading propaganda concerning emigration and immigration should be prohibited and subject to a penalty.

All the replies agree on the principle of prohibition and, with the exception of that of Sweden, which is in favour of a Recommendation on all points, there is also agreement on the inclusion of this principle in a Draft Convention. Opinions are somewhat divided, however, on the subject of penalties.

Sweden agrees that misleading propaganda should be subject to penalty but states that the imposition of penalties for unauthorised propaganda would meet with difficulties in that country, as effective supervision would not be easy. Denmark and New Zealand are in favour of the prohibition of misleading propaganda but do not explicitly mention unauthorised propaganda. France, while replying in the affirmative to the question as a whole, is in favour of penalties being the subject of a Recommendation rather than of a Draft Convention.

In these circumstances, it would seem that the Draft Convention might provide definitely for the prohibition of misleading propaganda.

The difficulty concerning unauthorised propaganda would appear to arise from the fact that the meaning of this term is not clear. It would, therefore, seem necessary to say that what is meant is

that propaganda unauthorised by the laws or regulations in force should be subject to a penalty.

By question 2, paragraph 2, Governments were asked whether they considered that there should be provision for supervision of the various forms of publicity concerning offers of employment in one country to workers of another country. On this point, all the replies are again in the affirmative; Sweden, nevertheless, points out that Swedish legislation concerning the liberty of the press would throw certain obstacles in the way. Among the replies received, six Governments (Egypt, Finland, India, the Netherlands, Norway, and Poland) consider that the question should be the subject of a Draft Convention. Switzerland is of opinion that, as the forms of such supervision would be likely to vary considerably from one country to another, a Recommendation on this point would perhaps allow greater flexibility in the adjustment of national legislation. The other Governments, with the exception of Sweden which, generally speaking, favours the form of a Recommendation, make no definite suggestions on this point.

To sum up, the desirability of supervision of the various forms of publicity seems to be admitted by the different Governments and there seems to be fairly general agreement also that the principle of supervision should be included in the Draft Convention, the methods of its enforcement to be provided for by national legislation.

Service to Supply Information and Give Assistance to Migrants

Question 3

The object of this question was to obtain the opinions of Governments on the desirability of a service to supply information and give assistance to migrant workers free of charge (paragraph 1), on the duties of this service (paragraph 2) and on the kind of bodies to which this service should be entrusted (paragraph 3).

All the Governments which have answered this question are in favour of the proposed service. New Zealand observes, however, that the obligation to provide such a service should not mean that a separate service must be established by the immigration country in every country from which migrants may travel to it; and in effect the question refers only to the establishment of an information service by each country within its own territory[1]. For Poland, the question whether the service should be free of charge, or whether partial reimbursement of expenses incurred should be allowed, is not an essential one and might be settled either way according to circumstances.

With regard to the duties of this service, all the Governments which have answered the question are in general in favour of the

[1] The important problem of information services in foreign countries, raised by New Zealand, would come rather within the scope of question 18 (2)(*a*) relating to special agreements on the supply of information.

duties proposed in the Questionnaire, except Rumania, which thinks that these duties should be determined by national laws or regulations. Sweden considers that the duties indicated are too extensive —for example, concerning employment and living conditions in the place of destination; it suggests that the international regulations on this question might be drawn up in a more general and careful way and adds that it might be sufficient to stipulate that the information should be given in a language comprehensible to the migrants and not necessarily in their own languages or dialects.

The Governments which replied to the question asking to whom the operation of the service to supply information and give assistance to migrants should be entrusted (paragraph 3) seem, with the exception of Egypt and Norway, which think that the duties of this service should be entrusted exclusively to the public authorities, to be in favour of this service being made the responsibility of the public authorities, but provision being also made for the participation of voluntary societies approved for the purpose by the competent authorities and subject to their supervision. Belgium considers that the operation of the service mentioned should be entrusted, in the first place, to the public authorities, who might in certain cases have recourse to voluntary societies which should be specially authorised for this purpose. Sweden states that the question of how the service should be operated depends on such circumstances as the volume of migration and the standing of the voluntary societies. Rumania gives the same reply as to the previous point.

As to the form which any international regulations on the subject dealt with by question 3 should take, five countries (Egypt, Finland, India, the Netherlands and Switzerland) formally propose a Draft Convention, this applying, so far as Finland and the Netherlands are concerned, only to the principle of the service; Poland and Sweden are in favour of a Recommendation. Norway proposes a Recommendation for paragraph (2). France observes that any measures taken in this connection should respect each State's freedom of decision.

In these circumstances, it would seem that the principle of the establishment of a service to supply information and give assistance to migrants, and an indication of the bodies to which its operation should be entrusted, might be laid down in a Draft Convention, but that it would be preferable to include the duties of the service in a Recommendation, as these duties would be likely to vary from time to time and from place to place.

Other Measures

Question 4

By this question Governments were asked to express their views on the desirability of adopting certain special measures to facilitate the supply of information to migrants. The first question dealt with the fixing of an interval between the publication and the

coming into force of measures of particular importance to migrant workers; and the second with the display, in appropriate places, of the text of the measures referred to.

Most of the replies are in favour of fixing an interval, the exceptions being those of France and Norway. Egypt, however, states that too long an interval should not be insisted on and Switzerland observes that there are special circumstances in which the application of measures of this kind brooks no delay; it adds that the principle, excellent in itself, might be stated in a Recommendation or in a Draft Convention, if this form is chosen, but it should be possible to accompany such a statement with an appropriate reservation. France considers that it is impossible to bind oneself in advance to the fixing of a reasonable interval, as it may sometimes be useful to introduce certain changes at very short notice—too short to permit previous notification of intending emigrants. Norway considers that a provision of this kind is superfluous. Finally, India and Egypt consider that the question should be treated in a Draft Convention and the Governments of Finland, the Netherlands and Poland are implicitly, and Sweden definitely, in favour of a Recommendation.

All the replies to the second point, concerning the display of the text of the measures referred to, are in the affirmative with the exception of those of the Netherlands and Norway, which are in the negative. Spain considers that the display of the measures in question should be undertaken with prudence, in order that it should not turn into propaganda for the encouragement of emigration. New Zealand is of opinion that the regulations should impose an obligation of this kind only on countries from which there is large-scale emigration. Egypt and India are in favour of a Draft Convention, Finland, Poland and Switzerland are implicitly, and Sweden definitely, in favour of a Recommendation.

In conclusion, a large majority of the Governments which have replied are in agreement with the principles laid down in both parts of the question but, in view of the observations which have been put forward, it would seem that regulations on the subject should be included in a Recommendation rather than in a Draft Convention. In both cases it is not so much a question of principle as of measures of application, for which a number of Governments have, in their replies to question 1, favoured the form of a Recommendation.

III. — Recruiting and Placing Operations

Questions 5-11 (replies on pp. 24 to 49)

Applications for Migrant Workers

Question 5

By question 5 Governments were asked to express their views on the desirability of applications from employers for migrant workers being supervised by the country of immigration (para-

graph (1) (*a*)) and by the country of emigration (paragraph (1) (*b*)). In addition, the Governments were asked whether they considered it desirable for the immigration country not to allow the recruitment of workers in another country for introduction into its territory until it has ascertained whether there are already foreign workers in that territory able to undertake the work in question (paragraph 2).

Most of the replies are in favour of the examination and endorsement of applications by the competent authorities of the country of immigration but certain reservations are made by New Zealand, while Finland and Switzerland give negative replies.

New Zealand states that the establishment of an immigration and emigration service with fairly considerable supervision may be justified in countries with large migration movements but that the adoption of such a proposal would go further than is warranted in respect of New Zealand; such a proposal is, however, endorsed by the New Zealand Government in respect of organised migration. The Swiss Government says that the examination of employers' applications for workers implies the organisation of a highly developed system of supervision both for the countries of emigration and for the countries of immigration, and adds that some States would probably have to establish completely new legislative and administrative machinery with this object, while others would have to reform their machinery in order to bring it into harmony with the international regulations. The Swiss Government is doubtful whether the means suggested would be certain to attain the object in view and it fears that at a time when economic conditions are normal the working of the contemplated system of supervision would deprive natural migration movements of a large part of the flexibility and spontaneity which they need for due development. The Finnish Government considers that the regulation of this question should be left to the countries concerned in view of the difficulty of providing in an international Convention that every contract of employment should be examined and endorsed by the public authority.

With regard to the supervision which the competent authorities of the countries of emigration should undertake, the replies are the same, except in the case of Sweden, which gives a negative reply on the ground that an examination of the kind here indicated would in many cases meet with considerable difficulties and would impose a dangerous responsibility on the competent authority. Denmark replies in the affirmative, but draws attention to the fact that the Danish Emigration Office acts only as a guide and that the persons concerned have to take the responsibility for their emigration.

With regard to the last point of the question, concerning the desirability of the immigration country making sure that among the foreign workers already in that country there are none who are able to undertake the work in question before admitting workers coming from another country, all the replies are in the

affirmative except the Swiss reply, which is based on the same arguments as those put forward on the preceding points.

The replies received on the three parts of this question are favourable to the adoption of a text. With regard to the form that this text should take concerning the first two paragraphs, only four countries, namely, Egypt, India, Norway and Poland, have formally proposed its inclusion in a Draft Convention. Belgium, the Netherlands and Sweden (to the extent to which the Swedish reply is in the affirmative) are in favour of a Recommendation and three other Governments, as already mentioned in connection with question 1, are in favour of confining the Draft Convention to general principles. Moreover, the observations put forward by Finland, New Zealand and Switzerland seem to show that a Draft Convention on this point would be too rigid. In effect, the diversity of the situations and systems existing in different countries concerning supervision of applications from employers for migrant workers seems to point rather to the desirability of a Recommendation which would leave to Governments more freedom to adopt, or not to adopt, such a system, according to the need for safeguarding the interests of the migrant workers and of the national employment market. With regard to the last part of the question, this also seems more suitable for a Recommendation. Only two countries (Egypt and Norway) have proposed that this point should be included in the Draft Convention, while Belgium, Finland, India, the Netherlands and Poland are more or less explicitly in favour of a Recommendation.

Bodies for the Recruiting and Placing of Migrant Workers

Question 6

In question 6 Governments were asked to indicate which bodies and persons might be authorised to undertake the recruitment and selection of migrant workers in the emigration country and their introduction and placing in employment in the immigration country and, in addition, to indicate the conditions on which licences might be granted for this purpose.

The first paragraph asked if the right to undertake the operations mentioned above should be reserved to public employment exchanges (paragraph (1) (*a*)) or if, subject to securing a licence for the purpose from the authorities of the country in which the operations are to take place, it should be extended to the employer or his personal representatives ((1) (*b*) i) and to private employment agencies not conducted with a view to profit ((1) (*b*) ii).

Switzerland is the only country which replies negatively to the whole question.

No Government is in favour of these operations being the monopoly of the public employment exchanges. Norway considers that engagement through the public employment exchanges is the best

system, but as the general adoption of this system is probably impracticable, the question should be arranged by mutual agreement. New Zealand and Sweden consider that the operations should be undertaken only by the public authorities in the case of collective recruitment (New Zealand), or of migration on a large scale (Sweden), but they agree that provision should be made for the participation of employers and private organisations, subject to supervision, in other cases (direct and small-scale recruitment respectively). Spain considers that the right to undertake these operations should be reserved to public bodies but that in certain cases, and subject to prior authorisation, it might be granted to private persons when obviously necessary or desirable. On the other hand, Egypt and Rumania are opposed to operations of this kind by private employment agencies; the Canadian Province of Manitoba to such operations by the employer or by persons engaged by him; and the Canadian Province of Saskatchewan to such operations by the employer or persons engaged by him, or by private employment agencies with the exception of agencies established by workers' organisations. Belgium considers that public bodies seem to afford all the necessary guarantees as regards the recruitment and selection of workers for European countries but that, for oversea countries, recruitment and transport should be entrusted only to specially licensed persons. India is opposed to the operations in question being reserved to employment exchanges or other public bodies but does not make it clear whether these bodies may be allowed to undertake such operations or not.

The other Governments which have expressed an opinion (those of Denmark, Finland, France, Poland and the Canadian Province of Alberta) reply in the affirmative to the various points of question 6. Poland, however, makes a reservation in the case of private employment agencies not conducted with a view to profit; in its opinion the functions in question should be entrusted to these bodies only if their work is carried on in accordance with principles agreed on by the emigration and immigration countries.

To sum up, there is a large measure of agreement in the replies received and it would seem possible to consider the adoption of a text on the lines of the question asked. As regards the form to be chosen, Belgium and Norway propóse a Recommendation and the choice of this form is also implicit in the replies of Finland and Switzerland; Egypt, India, the Netherlands and Poland suggest a Draft Convention. In spite of the absence of clear conclusions to be drawn from the above indications, the Office considers it justifiable to propose the insertion of this question in the Draft Convention, in view of the fact that it is a question of principle, which several Governments, in their replies to question 1, suggested should be treated in this way.

In paragraph 2 of question 6 Governments were first asked whether the conditions for the issue or renewal of licences for the recruitment and placing of workers should be determined by the national laws or regulations concerned, or by bilateral agreements

between the emigration and immigration countries ((2) (*a*)), then whether it was considered desirable that the activities and working of the licensed bodies should be supervised by the State on whose territory they operate ((2) (*b*) (i)) and if so what methods of exercising this supervision might be used ((2) (*b*) (ii)), and finally, if it was desirable that the bodies in question should furnish guarantees for the payment of compensation to a migrant worker in respect of any damages he suffers through the fault of the said bodies ((2) (*b*) (iii)).

Three Governments (Finland, India and Norway) think that the conditions for the issue or renewal of the licences should be regulated by agreements between the countries concerned; five (Denmark, Egypt, France, Rumania and Sweden), together with Western Australia and the Canadian Province of Manitoba, consider that the conditions should be determined by national laws or regulations; and four others (Belgium, the Netherlands, Poland and Spain) agree to either method. On the basis of these replies it would seem that the Office should propose both methods and not make a choice between them.

On the other hand, with the exception of the Canadian Provincial Government of Saskatchewan, the Governments unanimously agree that the activities and working of the bodies mentioned should be supervised by the State on whose territory they operate. France suggests that their activities should be supervised by the " recruiting " State and that the supervision should be permanent.

As regards the methods of exercising this supervision, Finland, New Zealand and Spain refrain from giving an opinion. Four other Governments (Belgium, Denmark, Poland and Sweden), as well as the Canadian Province of Alberta, do not consider it necessary that rules should be laid down on the subject, for supervision might suitably be regulated either by national laws or regulations or by bilateral agreements. Three other Governments make suggestions. The Netherlands proposes that supervision should be exercised by means of a central licensing system and of supervision by the public authorities as regards migration and placing. France suggests that supervision might, for instance, be exercised through a Government commissioner attached to each body authorised to undertake recruiting. India considers that it might be exercised by appointing a local official as an *ex officio* member of the bodies in question; by scrutinising propaganda conducted by such bodies; or by interrogating labourers recruited by them. In addition, Western Australia proposes supervision by the State Employment Department's officers and the Canadian Provincial Government of Manitoba proposes a Government Board. It seems hardly possible, in view of the variety of views expressed, for the Office to put forward a proposal which would be acceptable to a sufficient number of Governments. It has not, therefore, drawn up a text with regard to this particular point of the Questionnaire.

To the question of the desirability of the bodies mentioned above providing guarantees in respect of any damage the migrant worker

might suffer, the Canadian Province of Alberta, the Netherlands and Sweden reply in the negative. Sweden doubts the possibility of laying down such a rule and Denmark thinks it would be expedient to leave the form of the guarantees to agreements between the countries directly concerned. Among the Governments which reply in the affirmative, Poland and Spain propose a cash deposit. In Poland and Belgium a deposit is already provided for in connection with the transport of emigrants by sea and according to the Polish reply the deposits required of the authorised bodies would be used to compensate recruited workers whose complaints are recognised as well founded and as occasioned by the fault of the recruiting body. France considers that provision should be made in the conditions imposed on any recruiting body for the possibility of requiring payment of a deposit. India, on the contrary, thinks that the bodies in question might be required to maintain a fund financed by a small levy, collected otherwise than through the labourers, in respect of each recruit. Western Australia proposes agreements made legally binding between the parties and the Canadian Province of Manitoba suggests written declarations taken under oath.

The conclusion to be drawn would seem to be that a text may be proposed for the different paragraphs of this question, with the exception of that dealing with the methods of supervision of the bodies in question, which in any case most replies propose should be regulated by national laws or regulations.

As to the form to be given to the text, only two Governments (India and Egypt) propose the form of a Draft Convention. Belgium, Finland, the Netherlands, Norway, Poland and Switzerland are more or less explicitly in favour of a Recommendation. As, moreover, paragraphs (2) (*a*) and (*b*) (iii) of this question concern measures of application for which a Recommendation would seem in general to be preferable to other Governments, the Office has decided to propose a Recommendation for them. On the other hand, the degree of unanimity in the replies of Governments on the question of the desirability of the supervision of recruiting bodies (paragraph (2) (*b*) (i)) is such that the Office considers this principle might be included in a Draft Convention.

Warrant from the Employer

Question 7

By question 7 Governments were asked to give their views as to the desirability of obliging an intermediary to obtain a written warrant from the employer before undertaking the engagement of foreign workers or their introduction into a country (7 (1)), and, secondly, on the form that this warrant should take (7(2)).

All the Governments reply in the affirmative to the first point, with the exception of Denmark, which thinks an absolute obligation to obtain a written warrant seems hardly necessary in cases where the agent's operations are conducted under official super-

vision, and Switzerland, which repeats the arguments put forward in reply to questions 5 and 6. France considers that a contract of service or an application to introduce workers signed by the employer would be preferable to a warrant properly so-called and, in effect, the important question is not the legal nature of the document but the proof it furnishes that the operations in question are undertaken on behalf of an employer. Norway proposes that this question should be dealt with in mutual agreements. Belgium, Finland, the Netherlands and Poland suggest that the question should be treated in a Recommendation; Egypt and India are in favour of a Draft Convention.

The four questions in the second paragraph deal respectively with the language in which the warrant should be drawn up or into which it should be translated ((2) (i)), the particulars it should contain concerning the employer ((2) (ii)), concerning the operations contemplated ((2) (iii)) and concerning the work offered and the terms of payment thereof ((2) (iv)).

Most of the replies are in the affirmative. It should be mentioned, however, that France does not consider it necessary for particulars to be furnished respecting either the employer or the nature and scope of the recruiting operations. Sweden thinks that the warrant should be drawn up in or translated into a language understood by the emigrants and Poland that it should be in the official language of the emigration country. Belgium, Finland, the Netherlands and Poland propose a Recommendation for the above points and Egypt and India a Draft Convention.

Considering the general agreement contained in the replies to both parts of the question, the Office has prepared a text similar on the whole to that of the Questionnaire. With regard to the nature of the document required of the intermediary, it would seem possible to take the opinion of the French Government into consideration without endangering the object of the provision. Concerning the language in which the document should be drawn up, the Office has thought fit to follow the suggestion of Poland and to propose the official language of the emigration country. In effect, this document is chiefly useful to the authorities of the emigration country who have to supervise recruiting operations. The important thing for the emigrant is to know exactly what is contained in the contract of service offered to him and the question of the language in which the contract should be drawn up is dealt with in point 13 (3).

As regards the form, the Office, after taking into account the opinions expressed by the largest number of Governments, proposes a Recommendation, more especially as this is a question of measures of application and not of principle.

Scales of Expenditure

Question 8

By this question the Governments were invited to express an opinion on the desirability of the competent authorities' fixing

and publishing maximum scales for the expenditure that might be charged to the migrant worker recruited in or introduced into the country concerned, or to his employer, in respect of the recruitment, introduction, placing and repatriation of the worker (8 (1)). They were also asked whether they thought there should be an obligation not to charge the expenditure in question to the worker (8 (2)).

On the first point most of the replies are in the affirmative, but negative replies are given by Egypt, Finland and Switzerland. Belgium considers that the authorities responsible for supervising the recruitment of migrant workers should fix scales for the expenditure to which such recruitment may give rise and according to the French reply such scales should be fixed by the authorities of the country where the recruitment is undertaken, while the Polish reply states that the expenditure charged to employers by the placing institutions should be submitted to the authorities of both the emigration and immigration countries for approval. France considers that while it is indispensable that a limit should be placed on the expenditure charged either to the employer or the worker, it is impossible to make this the subject of an official publication. Sweden says that a provision of the kind suggested would not be very easy to apply on account of the varying conditions. Egypt and India suggest that this question might form the subject of a Draft Convention, while Belgium, France, the Netherlands, Norway and Poland propose a Recommendation.

With regard to the method of meeting the expenditure, various opinions are expressed.

Affirmative replies are made by Egypt, India, Rumania, Poland and Spain and also by the Canadian Province of Manitoba. According to India and Rumania the expenditure should be charged to the employer; India, Poland and Rumania consider that it should not be charged to the worker. The Polish reply adds, however, that at the most the employer might at the outset withhold part of the wages up to an amount provided for in the contract, as a guarantee against breach of contract by the worker without sufficient reason. Spain suggests that the expenditure should be met, as far as possible, by the States or by the employer or his agent. If this were found to be impracticable it would be essential to agree on a system for making the conditions and time-limits for any repayment by the worker as advantageous as possible in order to avoid any serious deterioration in the material situation of the workers. Sweden considers that in rare cases such expenditure may be charged to the worker but that as a rule this should be avoided.

Denmark and France are of the opinion that this question should be dealt with in relation to the contract of employment. According to the French reply the terms of such contracts provide as a rule for the charging of the expenditure in question to the employer; the Danish reply, on the other hand, states that an obligation not to charge the expenditure to the worker would probably prove

purely formal in character, because this expenditure forms one of the factors to be taken into account in fixing wages. Belgium states that under the legislation of that country a recruiting agent is not allowed to recruit emigrants either in Belgium or abroad by promising them a free passage. The replies of Norway and Switzerland and of the Canadian Province of Alberta are in the negative; Norway thinks that the proposal is impracticable, except in connection with long-term contracts, which cannot be recommended.

With regard to the form in which the proposals should be submitted to the Conference, Egypt and India suggest a Draft Convention, while Denmark, Finland, the Netherlands and Poland propose a Recommendation.

To sum up, the replies do not seem to be sufficiently precise to justify proposing an article in a Draft Convention but a Recommendation might give an indication to Governments on the desirability of fixing maximum scales for the expenditure resulting from the journey of migrant workers which may be recovered from the parties concerned. The same Recommendation might also suggest, in the event of certain expenses being charged to the worker and advanced to him, the desirability of measures limiting any deductions which the employer may be authorised to make for this purpose from the worker's wages.

Examination before Departure

Question 9

By this question Governments were asked to state whether migrant workers who have been recruited should be examined before their departure from the emigration country by a representative of the immigration country (9 (1)), whether an official of the emigration country should be present when operations are carried out for the recruiting of workers for employment abroad, if the operations are on a sufficiently large scale to be considered as collective recruiting (9 (2)), and whether the examinations and operations referred to should be carried out as near as possible to the workers' homes (9 (3)).

An examination of the replies shows that all the Governments agree that it is desirable for migrant workers to be examined before departure by officials of the immigration country but one or two Governments make reservations or observations. Belgium and Poland are of opinion that if such an examination takes place it should involve an undertaking from the immigration country that workers who pass the examination will be admitted into the country when they arrive there and Finland considers that if an undertaking of that kind is not given an examination would not be desirable. Some Governments observe on the other hand that examinations are practicable (New Zealand) or useful (Sweden) only when the volume of migration is sufficiently large. Denmark

suggests that provision be made for examination only in the case of collective migration.

With the exception of Norway, which considers that it would be superfluous, the replies are unanimously in favour of the presence of a competent official of the emigration country when collective recruiting is carried out. France does not consider that the official in question should be able to contest the selection operations effected by the recruiting countries.

All the replies, moreover, recognise the desirability of the examinations being carried out as near as possible to the workers' homes with the exception of France and Sweden, which doubt the possibility of including a rule of this kind in the international regulations, and Norway, which considers it superfluous.

As regards the form of the regulation, Egypt suggests a Draft Convention for all three points and India for the first two points. Belgium, Denmark, Norway and Poland specifically propose a Recommendation for the first point, Belgium and Poland for the second point, and Belgium, India and Poland for the third point.

Considering that these three points deal with methods of carrying out recruiting operations and that the application of these measures depends to a certain extent on circumstances and therefore cannot be made the object of definite obligations, the Office has chosen the form of a Recommendation for the text it has prepared. In order to take into account the reservations made by different Governments on the first point it has deemed it desirable to qualify the Recommendation by adding the words "as far as possible".

Facilities for Families

Question 10

In order to assist families who wish to accompany migrant workers or to join them after they have emigrated, Governments were consulted on the desirability of making provision for these families to have priority over other applications for permits to leave the emigration country and to enter or reside in the immigration country (10 (*a*)), and of a simplification of the formalities to be fulfilled and a reduction of the payments to be made on leaving the emigration country and entering and setting up residence in the immigration country (10 (*b*)).

Nearly all the replies are in the affirmative to the question as a whole. Sweden, however, considers it would be inappropriate to provide explicitly for preferential treatment of members of a foreign family by priority in the grant of labour permits. New Zealand replies affirmatively to the first part of the question but does not think the facilities proposed in the second part are desirable unless assistance is granted under some scheme approved by the au-

thorities. France gives reasons, for each point in the question, why it is impossible to lay down rules as detailed as those proposed; but the objections it puts forward refer chiefly to the inclusion of such rules in a Draft Convention and it is possible that a Recommendation on this subject would be acceptable.

The form of a Recommendation is, moreover, implicitly or explicitly suggested by all the other Governments (Belgium, Denmark, Finland, India, the Netherlands, Norway, Poland and Switzerland) which express an opinion on this point, with the exception of Egypt, which favours a Draft Convention. In conformity with the majority of the views expressed, the Office has adopted the form of a Recommendation for the text to be submitted to the Conference, all the more as this question deals with measures which it would be difficult to make the subject of specific obligations. The text itself, in view of the general agreement contained in the replies, follows closely the terms of the question asked. The Office proposes, however, to define more explicitly the meaning of one point about which there was an exchange of views in the Conference Committee in 1938, namely, the " family ". Switzerland suggests that this term should be taken to mean " the wife of the migrant worker and his children under age ". The definition proposed by the Office is much the same. Basing itself on the exchange of views which took place in the Committee last year, the Office suggests that the term " family " should mean such members of the migrant's family as are dependent on him and, in any case, his wife and minor children.

Freedom from Customs Duty

Question 11

To the question whether the immigration country should waive the right to levy customs duties on the necessary tools which the recruited immigrant workers bring with them, all the Governments replied in the affirmative with the exception of Western Australia, the Canadian Province of Alberta, Sweden which, while not objecting in principle, considers that such a measure would as a rule be without practical effect, and France, which expresses no opinion, declaring that it is not aware that difficulties have arisen in this connection. Egypt observes that this right should be waived only in the case of simple and inexpensive tools which are the property of the individual worker and Switzerland suggests either that the right should be waived altogether or that the rate of duty should be reduced. Egypt alone proposes the form of a Draft Convention for this question. Belgium, Denmark, Finland, India, Norway, the Netherlands, New Zealand, Poland and Switzerland are in favour of a Recommendation. In these circumstances, the Office has drafted a paragraph for a Recommendation.

IV. — Conditions of Employment

Questions 12-14 (replies on pp. 50 to 65)

Equality of Treatment

Question 12

The first part of this question set out a number of points on which Governments were asked to state whether they considered the international regulations should provide for equality of treatment of national and foreign workers. The second part invited Governments to say if in their opinion equality of treatment should be guaranteed to all foreigners without distinction of nationality, or to nationals of Members which grant reciprocity or to nationals of Members which ratify the proposed Convention.

No Government replied entirely in the negative to the first part of the question. On the contrary several Governments (Belgium, India, Norway and Poland as well as the Canadian Provinces of Manitoba and Saskatchewan) replied affirmatively either to the question as a whole or to each point separately, without making any reservations on matters of principle. India observes that it need not be stipulated that foreign workers should necessarily be accorded equality of treatment but merely that their treatment should not be less favourable than that of national workers. The Office considers that this suggestion seems to interpret the expression " equality of treatment " in a way which is quite in conformity with the meaning commonly given to it and that account should be taken of it in the text to be submitted to the Conference.

New Zealand replies in the affirmative to the question as a whole but with the remark that equality of treatment should be granted to foreign workers only in so far as they " have been authorised to become resident in the country".

Other Governments reply in the affirmative to some of the points and in the negative to others (Egypt, France, the Netherlands, Sweden and the Canadian Province of Alberta), or refrain from answering all the questions (Spain), or make reservations or observations on some of the points which limit the scope to some extent (Denmark, Finland, Switzerland and Western Australia).

An analysis will be found below of the replies and observations to each of the points in turn. The observation of New Zealand mentioned above will not, however, be repeated for each point.

(*a*) Governments were first asked to state whether in their opinion the principle of equality of treatment should be applied with regard to *conditions of work and in particular to all matters relating to wages.* All the replies to this question are in the affirmative and it does not seem necessary to consider as reservations

the view of France that any provision on this subject should remain in very general terms since the question itself was framed in a very general way, or that of Sweden that the attainment of a desirable equality of treatment in this respect might be regulated through trade unions, as the question did not deal with the method of application of the principle.

(*b*) In the second place, Governments were asked to state their views on equality of treatment with regard to *special employment taxes, dues or contributions*, whether charged to the worker or to his employer. On this point negative replies are given by France and by the Canadian Province of Alberta. France adds that on this point, as on those which follow, the States concerned should retain complete freedom of action and decision; such freedom might at the most be restricted in certain bilateral treaties which the contracting States always retain the right to denounce. All other Governments reply affirmatively without any reservation.

(*c*) The third point on which the Questionnaire suggested that there might be equality of treatment concerned *admission to employment* of (1) foreign workers authorised to reside in the country in that capacity and (2) members of their families authorised to accompany or join them in the immigration country. No Government makes any distinction between the workers themselves and members of their families so that each reply, whether affirmative or negative, as well as the reservations set out below, should be interpreted as referring to both the workers and their families. The replies on this point are not always clear. In addition to the Governments which reply definitely either in the negative or the affirmative, some add to their agreement or disagreement observations or explanations which result in their opinions approximating more or less closely to one another.

France replies definitely in the negative and makes the same observations as for point (*b*). The reply of the Canadian Province of Alberta is also in the negative. Spain makes no reference to this question in the list of points in respect of which it considers that there should be equality of treatment. Sweden explains the system of labour permits in operation in that country; these permits are always granted or renewed for limited periods and are also usually limited to a certain trade or in some cases to a certain place. The Swedish Government is of opinion that it should always have the right to refuse extension of a labour permit if this is considered desirable in view of the conditions of the labour market and it concludes that under the circumstances it is not able to agree with the suggestions made. Although drawn up in an affirmative form the reply of Western Australia should really be considered as negative because it limits the scope of the question to foreign workers "after naturalisation", that is to say, after they have legally ceased to be foreigners.

Among the other replies those of Denmark, Egypt and Finland make important reservations. Denmark considers that admission

to employment should be made dependent on the requirements of the local employment market and Egypt on the economic situation of individual countries. Finland observes that in countries which receive foreign workers without requiring them to hold a labour permit for a particular employment, equality as regards admission to employment seems desirable; it describes, however, the system of labour permits now in operation in that country (permits granted for a limited period and valid only for the employment for which they are granted) and adds that a modification of these provisions does not seem possible at present.

The replies of Belgium, China, India, Norway, the Netherlands, Poland and Switzerland, as well as those of the Canadian Provinces of Manitoba and Saskatchewan, are definitely in the affirmative. Switzerland observes that equality of treatment as regards admission to employment is secured to foreign workers and members of their families who are authorised to reside in the country permanently in that capacity, i.e. who hold establishment permits. Poland, in justifying the request for equality as regards admission to employment of foreign workers who on leaving home reckon with the possibility of a long stay in the country of immigration, agrees that those whose return to their country of origin is expressly stipulated in the contract, as, for example, seasonal workers or experts recruited for a particular piece of work, constitute a special case. It also agrees that there may be restrictions in respect of work of a secret character such as that connected with national defence. Rumania considers that the principle of equality should relate to the admission to employment of foreign workers authorised to reside in the country during the period in which they are entitled to carry on their occupation and subject to statutory or other measures of supervision concerning the engagement of foreign workers. No observations are attached to the other affirmative replies.

It would seem that the conclusion to be drawn from the replies as a whole is that the majority of Governments which express an opinion are definitely in favour of equality of treatment in regard to the admission of foreign workers to employment, but that any provision on this subject should be accompanied by certain reservations if it is to have a chance of adoption by the Conference. It should be pointed out that the question put to Governments is itself qualified by an important reservation; admission to employment on an equal footing with national workers is contemplated only for foreign workers authorised to reside in the country in that capacity and for members of their families authorised to accompany or join them in the immigration country. The idea underlying this qualification is that no Government can enter into an engagement to employ foreign workers until it has decided in the light of circumstances in general and of the state of its employment market in particular that their admission and stay on its territory can be authorised. Such an idea would seem to be latent in the observations and reservations made by several Governments,

particularly by those in which the system of employment permits is put forward in opposition to the principle contained in the question. When Finland remarks that the principle seems desirable in the case of countries which have not instituted such a system it is evident that it considers that these countries, in authorising the admission and stay of foreign workers in their territory, assume a kind of moral obligation to let them earn their living by entering any employment available to them, while other countries, in making entry to their territory subject to more or less strict conditions as regards admission to employment, limit their responsibility in respect of foreign workers, who decide to leave their own countries in full knowledge of the facts. That is also the point of view of Poland which, in support of the right of admission to employment, states that foreign workers on leaving home "reckon with the possibility of a long stay in the country of immigration, such a stay being most generally in accordance with the intentions of the authorities of the immigration country which will have had the employment situation in mind when authorising the entry of foreign workers". The Polish Government adds that this is not the case for foreign workers whose return to their country of origin is expressly stipulated in the contract, and gives as examples seasonal workers or experts recruited for a particular piece of work. Rumania would also limit the application of the principle of equality to foreign workers to the period in which they are entitled to carry on their occupation and subject to measures of supervision concerning the engagement of such workers.

It would therefore seem that the provision to be submitted to the Conference concerning the right of admission to employment of foreign workers should be qualified by a reservation applying to cases where admission or authorisation to reside in the country is subject, at the time when the admission or authorisation is approved, to clear and precise conditions as to the employment in question and its duration.

Another qualification would also seem necessary. As the Polish Government remarks, countries in their own interests frequently exclude foreign workers from certain kinds of employment. Such employment, as Poland says, is often in undertakings engaged on work of national defence. Employment in a public administration or in undertakings directly dependent on them also falls into this category. The Office has taken this fact into consideration in the text it has prepared.

(*d*) By the fourth question Governments were invited to state whether they favoured equality of treatment between national and foreign workers with regard to *social insurance*. The situation here is somewhat special. The International Labour Conference has adopted a series of Conventions on this subject which deal with the question of the treatment of foreigners. Governments which have ratified these Conventions have thereby fulfilled requirements in respect of the treatment of foreign workers. The sole object of the question asked here is to know whether Governments

which have not yet ratified these Conventions on account of difficulties due to provisions other than those dealing with the treatment of foreign workers should be invited to apply the latter provisions pending the possible ratification of the Conventions as a whole.

The only negative reply is that of France. Its attitude on this point is the same as on the two previous points. The Canadian Province of Alberta and Switzerland do not reply to the question, the latter only saying that it has ratified the Unemployment Convention and the Equality of Treatment (Accident Compensation) Convention. All the other Governments reply in the affirmative. The Netherlands, however, observes that in its opinion social insurance questions should be treated in Conventions dealing with that subject and not in a Convention dealing with migration. Poland states that equality of treatment in this respect will be achieved only if residence of the worker or his family in the country of origin is considered equivalent to residence in the country of immigration for purposes of the award and payment of pensions to foreign workers and their dependants. But this point of view in no way modifies the desirability of applying the provisions concerning the treatment of foreigners contained in the International Conventions on social insurance and thus conforming to the almost unanimous opinion of the Governments.

(*e*) This point deals with equality of treatment as regards *the right to belong to trade unions.* On this point again the reply of France is in the negative and couched in the same terms as its reply to the three preceding points. The Netherlands does not consider that this point should be dealt with in international regulations but thinks that it should be decided by the trade union organisations concerned without interference by the public authorities; this view is shared by Sweden. With the exception of the Canadian Province of Alberta, which has not answered the question, the replies of all the other Governments are in the affirmative without any reservations.

(*f*) The last point on which Governments were asked to express an opinion concerned equality of treatment with regard to *the legal enforcement of contracts of employment.* Sweden observes in this connection that the question does not arise in that country, owing to the system of collective agreements in force there. The French reply contains no reference to this point, nor does that of Alberta. All the other replies are in the affirmative without reservations.

To sum up, the replies on the various points of paragraph 1 of question 12 are such as warrant the drafting of a text providing for equality of treatment of foreign workers in regard to all the matters enumerated in the Questionnaire. Nevertheless on one point, that of admission to employment, the observations made by several Governments indicate that appropriate reservations must be made.

By the second part of question 12 Governments were invited to say whether they agreed to grant equality of treatment to all foreign workers without distinction of nationality, or if they favoured a system of reciprocity or if they were of opinion that equality of treatment should be limited to nationals of Members which ratify the proposed Convention.

The first proposal is approved by China, Denmark, Norway, Poland, and Sweden, as well as by the Canadian Province of Saskatchewan. The Netherlands agrees to this proposal as regards social insurance legislation except in respect of payments from public funds; otherwise it is in favour of reciprocity. Three Governments (India, Spain and Switzerland), while agreeing in principle to the first proposal, consider that it will be difficult to find a solution of the problem unless the equality is based on reciprocity.

Reciprocity is advocated without hesitation by Belgium, Egypt, Finland, New Zealand and Rumania, as well as by Western Australia and the Canadian Province of Manitoba, and, as stated above, by the Netherlands for all questions other than social insurance. In addition, Switzerland considers that reciprocity should open the way for bilateral agreements and France thinks that equality of treatment can be dealt with only by bilateral agreements.

Few Governments express an opinion on the third alternative and it has been approved only by the Canadian Province of Manitoba, which is also in favour of the second.

In general, therefore, reciprocity is the solution which the majority of Governments are prepared to accept.

As regards the form to be adopted for the international regulations on the points raised by question 12, Egypt is the only country which is definitely in favour of a Recommendation. Belgium, Finland, India, Norway, Poland and Switzerland approve, implicitly or explicitly, a Draft Convention. It should be recalled, moreover, that some Governments (Denmark, France and Spain) declared in reply to question 1 that they advocated the inclusion of questions of principle in a Draft Convention and measures of application in a Recommendation [1].

Taking these different opinions into account and also the nature of the question, a satisfactory solution of which would seem possible only on the basis of a reciprocal obligation on the part of the States concerned, the Office has chosen the form of a Draft Convention for the text it has prepared. An exception has been made only with regard to social insurance which, as already stated, has already been regulated by international Conventions. It does

[1] The attitude of the French Government in this connection is not quite clear. While its reply to question 1 would seem to point to the inclusion of provisions dealing with equality of treatment in a Draft Convention, it makes use in its reply to point 12 (1) (*a*) of the word " recommendation " without making it clear if the form of a Recommendation is the one it advocates for this point.

not seem possible to include in a Draft Convention a provision by which Governments would undertake to apply the provisions of other Conventions. The form of a Recommendation has therefore been adopted for this point. Moreover, as several Governments declared in favour of the principle of equality of treatment being applied to all foreigners without distinction of nationality and as the application of this principle is very desirable from a social point of view, the Office feels justified in proposing a paragraph in the Recommendation inviting Governments to apply it in this way as far as possible.

Contracts of Employment

Question 13

This question dealt with the case in which a contract of employment is concluded between an employer, or an agent acting on his behalf, and a migrant worker before the latter has left the emigration country. The Governments were invited to state whether they considered that in such a case the contract should compulsorily contain precise information on certain points (first paragraph) and, if so, to specify which points should be included in the contract (second paragraph) and in which language the contract should be drawn up or translated (third paragraph).

The Governments are almost unanimous in the view that in the event of a contract being concluded before the migrant's departure it should compulsorily contain precise information on certain points. Norway is the only country which proposes that the question should be settled by mutual agreement between the authorities of the States concerned. Finland also suggests the conclusion of bilateral agreements but agrees that States might be recommended to take the various points mentioned in question 16 into consideration in the conclusion of such agreements. Switzerland, although it does not raise any objection of principle to the proposals made, thinks that it would perhaps be better to wait until international legislation concerning migrant workers has reached a more advanced stage before adopting international regulations on the various points mentioned.

The points on which the Governments were asked in paragraph 2 to state whether they considered that precise clauses should be included in the contracts of migrant workers were the following:

(*a*) exact duration of the contract;

(*b*) exact date on which and place at which the migrant worker is required;

(*c*) method of meeting travelling expenses

(i) for the outward journey;

(ii) for the homeward journey;

(iii) for members of the worker's family in general; and

(iv) for members of the worker's family in the event of the worker's death in the course of the journey;

(*d*) amount of any sums of which the employer or his agents are entitled to claim repayment by the worker;

(*e*) housing accommodation at the place of destination;

(*f*) provision for maintenance of the worker's family in the country of origin.

Apart from the Swiss reservation referred to above, and an observation by Sweden which approves of the inclusion of the various clauses in the contract in so far as collective agreements in force do not render it unnecessary, no general observation is formulated, and there are very few negative replies on any point.

There is complete unanimity with regard to points (*a*) and (*b*). With regard to the various matters in point (*c*), all the replies are in the affirmative *in toto*, except those of France and Poland, in which certain observations are made. France agrees that the method of meeting travelling expenses for the homeward journey, and, generally speaking, for members of the worker's family authorised to accompany or join him in the country of immigration should be mentioned in the contract but considers that a similar reference concerning the worker's outward journey or concerning the expenses of the worker's family in the event of his death during the journey would be useless or difficult to enforce. Poland remarks that if the employer formally undertakes to share in the travelling expenses of the family, that should be mentioned in the contract; with regard to the travelling expenses of the worker's family if the worker dies during the journey, Poland considers that this is a rare case and reference to it in the contract is not indispensable. In view of these objections and observations, the Office has refrained from including this last point among the compulsory clauses to be inserted in contracts of employment.

There is also virtual unanimity for the inclusion of a clause on the amount of any advances that may be made by the employer or his agents, and the repayment of which may be claimed from the worker. The only negative replies are those of France and the Canadian Province of Manitoba. The French Government considers that a reference to this matter would be useless or difficult to enforce. Poland recalls that it is opposed to charging the expenditure in question to the worker but it adds that if it were to be provided that the employer should stop a certain sum from the worker's wages as a guarantee that the terms of the contract will be complied with and that this sum should be handed to the worker at the end of the contract, precise information should be given in the contract on the total amount of the guarantee, the sum to be stopped from each pay, etc.

All the replies are affirmative concerning the inclusion of a clause on housing accommodation at the place of destination, except that of France, which considers that such a clause, like the preceding one, would be useless or difficult to enforce. Poland states that a clause of this kind is necessary only if the housing accommodation is provided by the employer. As the difficulties mentioned by France probably refer more particularly to the case in which housing is not provided by the employer, the Office considers that the draft might well contain a reference to this point.

Inclusion of a clause on the provision made to ensure the maintenance of the worker's family in the country of origin is considered useful by all the Governments, except the Egyptian Government, which replies in the negative, and the French Government, which states that such a clause would be inacceptable to any immigration country. Poland says that if provision of this sort is made it should form an integral part of the contract. It seems to the Office that the proposed text should be drafted in such a way that, as suggested by the Polish Government, the Conference would recommend not that provision of the kind referred to should be required in all cases—that was not the object of the question asked—but only that when made there should be a reference to it in the contract.

Suggestions are made in three replies for new clauses not mentioned in the Questionnaire. Thus, Spain suggests clauses on the method of paying wages, to the exclusion of " canteen vouchers ", the amount of compensation in case of termination of the contract not due to the fault of the worker, medical assistance and the application of provisions concerning industrial accidents; Poland suggests a reference to the method, if any, by which the contract may be prolonged and, if a contract is concluded for an unspecified period, the method of termination and the notice that must be given; and Denmark suggests a clause concerning the wages for the work offered.

As will be seen, some of these suggestions concern the question of wages, which must necessarily be mentioned in every contract of employment and which, for this reason, was not included in the various points in the Questionnaire considered to be of special concern to migrant workers. Other suggestions relate to entirely new questions (medical assistance, compensation for industrial accidents and compensation in the case of the termination of a contract) which cannot be included in the text prepared by the Office, because they were not mentioned in the Questionnaire and the Office has therefore not been able to obtain the views of the Governments with regard to them. Other suggestions relate to points which were mentioned in the Questionnaire, their object being, above all, to supplement those points and to define them more precisely. Suggestions of this kind are those concerning the method, if any, of prolonging the contract and, if the contract is concluded for an unspecified period, the method of termination

and the notice to be given. It seems to the Office that these points would supplement and make clear the clause referred to in (*a*) dealing with the exact duration of the contract and this has therefore been borne in mind in the text prepared by the Office.

The third paragraph asked Governments to express an opinion whether the contracts of migrant workers should be drawn up in, or translated into, the language of the worker as well as that of the employer. All the Governments reply in the affirmative, except that Sweden considers that this is a matter of course and that it is perhaps unnecessary to include such a provision in the international regulations. Poland suggests that the two languages of the contract should be those of the country of emigration and of immigration and Spain suggests that contracts of this kind should be endorsed by the consul of the worker's country of origin, accredited in the immigration country and competent for the district concerned.

Very few precise indications are given by the Governments concerning the most suitable form for the international regulations on this subject. India and Rumania are the only countries which suggest a Draft Convention, while Egypt, Finland, the Netherlands, Poland and Switzerland express their preference, implicitly or explicitly, for a Recommendation.

As it appears to the Office that the proposed measure is concerned not so much with questions of principle as with questions of application, aiming at ensuring a better protection for the migrant worker and his family, it has prepared a text for insertion in the Recommendation.

To sum up, in view of the large measure of agreement on most of the points, the text prepared by the Office follows very closely the drafting of the question to which Governments were asked to reply. Points (*a*) and (*g*) have been made more precise, as already indicated above, in accordance with suggestions made in certain replies; point (*d*) has been redrafted in order to bring it into harmony with the text proposed on the second paragraph of question 8 (maximum scales of expenditure); point (*c*) (iv) concerning the method of meeting travelling expenses for members of the worker's family in the event of the worker's death during the journey has been left out, in view of the observations made concerning the difficulty and the comparative uselessness of a compulsory reference to this question in the contract.

Supervision of the Conditions of Work of Migrants

Question 14

This question dealt with the supervision of the conditions of work of migrants in the immigration country when the number of migrants is considerable. In the first paragraph Governments were asked for their opinion on the desirability of measures to ensure a supervision adapted to the needs of the migrant workers and in the second paragraph on the utility of organised collaboration

between the administrative inspection services and voluntary societies for the assistance of migrants.

The first paragraph suggested either the establishment in the labour inspectorate or any other similar administrative department of the immigration country of a special inspectorate or service, or the specialisation of labour inspectors or other officials whose duty it is to supervise the conditions of work of migrant workers.

Four Governments are opposed to either of these alternatives. According to the Belgian Government, foreigners should not be given special treatment; Sweden points out that in that country foreign workers are subject to the same factory inspection as nationals and it considers that a provision of this kind should not be included in the international regulations; according to Denmark, also, this matter should be left to national laws or regulations; New Zealand says that if equality of treatment is accorded to foreign workers it would appear that a separate inspection service is unnecessary. Switzerland considers that the question relates above all to the immigration countries affected by large-scale immigration movements and therefore refrains from giving a reply.

Among the Governments which have replied affirmatively to the question, Finland, India, Norway and the Netherlands, as well as the Canadian Province of Saskatchewan, prefer the first alternative (special inspectorate) and Western Australia the second. Rumania considers that immigration countries should make provision for the specialisation of labour inspectors or other officials, if a special inspectorate or service is unnecessary or cannot be set up. The other Governments express no opinion on the alternatives suggested. Egypt and Spain, and also the Canadian Provinces of Alberta and Manitoba, consider that either of the alternatives would be acceptable and Poland is of opinion that the choice depends entirely on the volume of immigration into the country concerned. France thinks that in the international regulations it is sufficient to assert the need for a special supervisory service without defining the administrative methods of applying the principle.

Almost all the replies to the second paragraph are in the affirmative. Those of New Zealand, Sweden and Switzerland, as well as that of the Canadian Province of Saskatchewan, are in the negative. Finland gives no reply. France, which replies in the affirmative, nevertheless adds that the States concerned should retain complete freedom of decision in this respect. India agrees to the proposal if reliable voluntary societies are in existence or can be formed. Poland requests that the voluntary society which is to co-operate with the administrative services in question should be chosen in agreement with the emigration country concerned.

The form of a Draft Convention for this question has been suggested only by India. The other Governments which express an opinion are in favour of a Recommendation and in effect it is obvious from the replies received that the nature and importance of the inspection service contemplated must necessarily vary greatly in accordance with the volume of immigration and that therefore

considerable latitude should be left to Governments. The Office has therefore adopted the form of a Recommendation for the text it proposes. In order to take into account the opinions expressed by many of the Governments it has drafted this text in broad terms; it has refrained from proposing either of the alternatives suggested in the Questionnaire, and has left it to Governments to make their choice according to circumstances and to their needs.

V. — Repatriation

Questions 15 to 17 (replies on pp. 65 to 76)

Repatriation of Workers who have Failed to Secure Employment

Question 15

The first question on repatriation dealt with the case of the recruited worker who, for reasons beyond his control, fails to secure the employment for which he has been engaged. Should provision be made in the international regulations for the various costs of his repatriation, as well as those of any members of his family who may be with him, to be met by the employer, by the recruiting agent or by any other party (paragraph 1) ? If so, would it be desirable to indicate in the international regulations that certain steps should be taken in advance to meet these costs (paragraph 2) ?

Switzerland declares that in view of the manner in which the problems of the repatriation of migrant workers arise in that country it hardly appears possible for the Government to reply in the affirmative to this question at present. Finland does not reply to the question as a whole: it proposes that the payment of the costs of repatriation should be settled by agreement between the countries concerned, or failing such agreement by contracts of employment or other agreements between employers and workers or their representatives. Denmark does not reply directly to the question; it explains that in most of the cases mentioned the employer or the recruiting agent will no doubt be responsible for the payment of these costs in accordance with the general principles applicable to contracts. As regards the cases in which the employer or the recruiting agent cannot be held liable, the Government is unable to put forward suggestions for lack of experience in the matter.

All the other replies are in the affirmative as regards the first paragraph of the question. Those of Belgium and France are, however, accompanied by important reservations. Belgium, in fact, limits its reply to cases in which the employer or the recruiter is at fault, though the principle on which Governments were questioned was that of exonerating the migrant worker in all cases in which he is not at fault, no matter who else may be at fault. The French

Government declares that repatriation free of charge can be contemplated only in the case of the first arrival of a migrant worker in the immigration country immediately after his introduction under a contract of employment and only if it can also be proved that he was wrongly recruited, that is to say, that he lacks the necessary occupational qualifications.

The other Governments which reply affirmatively make no reservations but they sometimes add suggestions. Sweden proposes that the employer should perhaps, for practical reasons, always be held responsible for the costs in question but it reserves to the employer the right to recover damages from a third party if this third party is to blame for the fact that the worker fails to secure the employment for which he was recruited. Poland considers that the regulations should make provision not only for cases in which the worker fails to secure the employment for which he was engaged but also for cases of premature dismissal before the end of the period laid down in the contract on the basis of which he was recruited, if the termination of the contract is not due to the worker's fault, and if administrative provisions prevent him from seeking or taking new employment on the same basis as a national worker or oblige him to leave the country of immigration.

As will be seen, the suggestions of Sweden and Poland tend to give the migrant worker greater and more adequate protection, by indicating on whom the costs of repatriation would fall in the first place and by framing the question more widely. However interesting these suggestions may be, the Office nevertheless considers that they modify or extend appreciably the scope of the question to which Governments were asked to reply and it cannot, without first consulting the other Governments, take account of these suggestions in the text to be submitted to the Conference, which is based on the Government's replies.

Governments were invited, in the second paragraph, to say (*a*) whether the costs of repatriation should in the circumstances described under (1) be met out of a common guarantee fund and, if so, (*b*) whether this fund should be constituted out of premiums paid by employers who receive one or several foreign workers.

The replies on this point are less positive. In addition to Switzerland, Denmark and Finland, whose opinion has already been indicated, the Netherlands and Sweden reply in the negative, and Poland refrains from giving an opinion, as it considers that the question is within the exclusive competence of the country of immigration. France merely says that repatriation can take place only at the expense of the employer or his representative, without giving an opinion on the proposed method of guarantee. Norway replies in the affirmative as regards the desirability of a guarantee but considers that the question whether or not the fund should be constituted out of premiums paid by employers does not arise. Belgium thinks that it would be very useful to institute a common guarantee fund but as regards the second point says only that liability should rest with the person who is at fault and

does not reply directly to the question. The only Governments which reply affirmatively to the whole of the question are Egypt, India, New Zealand and Spain and also Western Australia and the Canadian Provinces of Alberta and Manitoba. It would seem in these conditions that there is not a sufficient majority for this point to be included in the text which the Office is submitting to the Conference. The draft prepared by the Office therefore refers only to the first paragraph of the question.

As regards the form of the text, the replies of India and Poland favour a Draft Convention. France, on the other hand, is definitely opposed to a Draft Convention and Belgium, Egypt, Finland, Norway, the Netherlands and Sweden advocate more or less explicitly the form of a Recommendation.

The Office has therefore drawn up the text it proposes for this point in the form of a Recommendation. Further, this form would seem better adapted than that of a Convention to a question which is extremely complex and the solution of which has given rise to regulations differing considerably in continental and intercontinental migration respectively. For the same reason it seems desirable to draw up the text as broadly as possible, laying stress only on the object to be attained, that is, to ensure that the migrant worker shall not have to pay the costs of his repatriation in the circumstances indicated, and refraining from mentioning by whom these costs will be met.

Repatriation of Migrant Workers on Account of Lack of Means or of the Employment Situation

Question 16

By this question Governments were consulted on the desirability of adopting international regulations concerning the right of the country of residence to repatriate regularly admitted foreign workers or their families for reasons connected with their lack of means or with the employment situation.

Two alternatives were suggested; one proposed that the country of residence should undertake not to expel such workers from its territory except in agreement with the country of emigration (paragraph 1); the other suggested that repatriation should be subject to certain conditions and precautions (paragraph 2).

The first alternative is accepted, to the exclusion of the second, by China, India, Norway and Poland, as well as by the Canadian Province of Manitoba. It is also accepted by Spain, which proposes a combination of the two.

The other replies are in the negative. New Zealand, for example, considers that if equality of treatment is accorded to foreign workers a regulation on the lines of question 16 is unnecessary. Sweden emphasises that the competent authority cannot very well give up its right to expel foreign workers or their families for the reasons stated and Denmark points out that under the legislation

of that country foreigners who are not entitled to State relief and have no adequate means of subsistence must be deported or expelled by police measures. Finally, France declares that a Draft Convention providing for an undertaking by the country of residence on the lines proposed would be inacceptable.

As regards the alternative proposed in the second paragraph, it is more difficult to estimate the dominant feeling. Only a few Governments reply separately to each of the points. Some merely give a general reply. Sweden, after declaring itself opposed to the suggestion in the first paragraph, adds that every reasonable consideration should however be shown to workers repatriated in the circumstances mentioned. Finland is of opinion that the question should be regulated by agreements between the countries concerned in which the principles mentioned might be taken into consideration. Denmark gives detailed replies on two points, to which reference will be made later, and declares, for the rest, that regularly admitted foreign workers should be treated with some consideration in the event of repatriation. Rumania replies that it is in agreement with most of the proposals made but it does not indicate with which points it agrees or disagrees.

It is impossible to consider in detail the replies made to each of the points. It should, however, be mentioned that the replies are, generally speaking, favourable to the general object of the question and this fact should be borne in mind when reading the following summary. It should also be remembered that four States which express an opinion in favour of the first alternative do not reply to the second and it cannot be inferred from their silence whether they would be prepared to accept the second alternative in the event of the first, and more radical, alternative being rejected. This remark also applies to the reply of the Canadian Province of Manitoba.

In paragraph 2 of question 16 Governments were asked for an opinion on four proposals. The replies on each of these four points are as follows:

(*a*) Governments were first of all invited to state if they were in favour of limiting the right to repatriate workers for the reasons mentioned to foreign workers who had resided in the country for less than a certain period. If so, they were asked if they would agree to a period of five years, and, if not, to propose another period themselves. France, the Netherlands and the Canadian Province of Alberta reply in the negative. Belgium, Egypt, and Spain, in addition to Western Australia and the Canadian Province of Saskatchewan, reply in the affirmative. Belgium, Egypt, and Spain are in favour of a period of residence of five years; the Canadian Province of Saskatchewan proposes ten years. It should be added that Egypt seems to consider the period of five years rather as giving the migrant the right to greater protection against expulsion than as securing him against repatriation altogether. Denmark and Switzerland, while agreeing with the idea

of giving a certain guarantee to workers who have been resident in the country for a long time, make reservations as regards the proposed regulation and suggest different solutions. Denmark considers that as a general rule account should be taken of the needs of the employment market but agrees that an exception might be made in the case of migration movements organised in special conditions. For the rest, it remarks that it should be left to national laws or regulations to determine the conditions under which an extended right of residence might be granted to a foreigner who finds it necessary to have recourse to public assistance. Switzerland cannot accept the proposed obligation, which, it states, is hardly conceivable, but adds that it would be desirable to generalise bilateral agreements based on the principle of reciprocity which allow the nationals of one country to obtain permits for permanent establishment in the other, without any condition with regard to engaging in economic activity.

(*b*) Governments were then invited to say whether they would agree not to repatriate a foreign worker for the reasons mentioned until he had exhausted all his rights to unemployment insurance benefit. On this point France and the Netherlands reply in the negative; Belgium, Egypt, Spain and Switzerland, as well as Western Australia and the Canadian Provinces of Alberta and Saskatchewan, reply in the affirmative.

(*c*) This point concerned certain precautions which States might agree to take before deciding on the repatriation of a foreign worker; the first precaution would be to make sure that the worker has received due notice, giving him reasonable time, in particular, to dispose of his property. The Governments which give a definite reply to this question all answer in the affirmative (Belgium, Egypt, France, the Netherlands, and Switzerland, as well as Western Australia and the Canadian Provinces of Alberta and Saskatchewan).

The second precaution would be to make sure that suitable arrangements have been made for the transport of the worker and his family. France and Switzerland reply in the negative; Belgium, Egypt, the Netherlands and Spain, as well as Western Australia and the Canadian Provinces of Alberta and Saskatchewan reply in the affirmative.

The third precaution would be to ensure that necessary arrangements have been made so that the worker and his family shall receive every consideration called for in the circumstances. Governments were invited to suggest the provisions which they considered should be included in the international regulations on this point. The replies received are similar to those made to the previous point but there is no suggestion as to provisions which might be adopted.

(*d*) Finally, Governments were asked if they would agree not to repatriate a migrant worker unless the competent authority has satisfied itself that the worker would be paid the whole cost

of his repatriation and that of his family, including the cost of transport of his household belongings, to the final destination, or, if this was not the case, would themselves undertake this payment.

Egypt, France and Switzerland reply in the negative and the Canadian Province of Alberta observes that the reply to this question should depend upon the circumstances in each case. On the other hand, Belgium, Denmark, the Netherlands, and Spain, as well as Western Australia and the Canadian Province of Saskatchewan, reply in the affirmative. The Netherlands is in agreement except in cases in which the worker is repatriated against his will and Denmark says that according to Danish practice foreigners are transported at public expense only to the frontier of their country of domicile.

To sum up, if the replies to the two parts of question 16 are considered as a whole, it appears that a minority are in favour of the alternative proposed in the first paragraph in preference to that contained in the second. Among the remaining countries, some merely state that they agree to some measure of protection of migrant workers against enforced repatriation but do not say what their attitude is as regards the various points proposed. Others agree to all the points but the majorities are not always the same. Considering that some Governments have not replied in detail to the various points and that those which support the first alternative do not say to what extent they are prepared to accept the various parts of the second, it is difficult to weigh the affirmative replies against the negative in connection with each of the different points.

It will be seen that it is not easy to draw a definite conclusion. This difficulty would seem to be due in part to the way in which the question was framed. When comparing the replies account should be taken of the fact that Governments were invited to decide for or against a formal obligation not to repatriate foreign workers in certain circumstances. Such an obligation can be made binding only by a Convention. The majority of Governments is opposed to accepting a legal obligation of this kind in respect of the first paragraph and the reluctance of several Governments to undertake a definite obligation limiting their right to repatriate foreign workers would seem to be the cause of their non-committal attitude towards the various points of the second paragraph.

In these circumstances, the Office has thought it best not to propose the form of a Draft Convention for any of the points of this question. On the other hand, it could not judge what the attitude of Governments would be towards each of the separate points of the second alternative had the question been drawn up differently and framed rather with a view to the adoption of a Recommendation than of a strict and formal undertaking. The Office therefore includes both alternatives in the text and the Conference will thus be able either to choose one or other of them or to combine the two.

The Treatment of Migrant Workers who Return to their Country of Origin

Question 17

Question 17 dealt with the situation of migrant workers and members of their families who, having retained the nationality of their country of origin, return to that country.

By paragraph (*a*) Governments were consulted on the desirability of asking the country of origin to extend the scope of its various measures for poor relief, unemployment relief and promoting the re-employment of the unemployed to cover such repatriated workers by exempting them from fulfilment of conditions as to previous residence or employment in the country or locality.

The Canadian Province of Saskatchewan replies to this question in the negative. Denmark considers it is natural that migrant workers, when they return to the mother country, should be treated on the same footing as other nationals. It thinks, however, that it would be difficult to make an exception in the case of the special conditions concerning residence or employment, which, even for such returning migrants, must be satisfied as a condition for obtaining certain rights; for example, a definite period of employment may be required as a condition for the receipt of benefit from the recognised unemployment funds. All the other replies are in the affirmative, those of New Zealand and Poland stipulating that the facilities in question should be accorded only to endorsed migrants or to those who have not emigrated illegally.

Paragraph (*b*) of the same question dealt with the desirability of a provision inviting the country of origin to waive the right to impose customs duties on things which are in daily use by workers who return to their mother country.

Sweden, together with Western Australia and the Canadian Province of Alberta, reply in the negative. Sweden repeats the observation it made in connection with question 11, that is to say, that a provision of this kind would be without practical effect. All the other replies are in the affirmative. Poland observes that the exemption from customs duties should not be extended to seasonal workers or workers who leave for a brief period. New Zealand makes the same observation as it did to the preceding paragraph and considers that the privilege should be granted only to endorsed migrants.

Poland advocates the form of a Draft Convention for the first two points and of a Recommendation for the second. The other countries which have expressed an opinion all advocate a Recommendation for the whole question. Considering the general nature of the replies and of the question under discussion, the Office has prepared a text in the form of a Recommendation.

VI. — Bilateral Agreements

Questions 18 and 19 (replies on pp. 77 to 84)

Conclusion and Contents of Special Agreements

Question 18

Questions 18 and 19 were devoted to the subject of possible co-operation by bilateral agreements between countries of emigration and immigration in the organisation of their migration movements.

Question 18 asked Governments to state whether they considered this method a suitable one and whether they considered it desirable that the Conference should recommend it (paragraph 1). The Governments were also consulted with regard to the points which might more particularly be suggested for inclusion in agreements of this kind (paragraph 2). On the question of principle no Government replies in the negative and a Recommendation on the subject is acceptable to all of them.[1] Sweden considers that the intended international regulations should be supplemented by agreements concluded by States between which there is a large migration movement; Switzerland thinks that the conclusion of bilateral agreements on this point may be of major interest to States which engage in an active immigration or emigration policy but it adds that such agreements are less necessary for States which are not affected by collective migration movements. The various points enumerated in the second paragraph of the question as an indication of the subjects which might be dealt with in special agreements between States directly concerned did not bring any detailed replies. On the whole, the enumeration in the Questionnaire appears to be acceptable to all the Governments; Egypt, France and Sweden, however, consider that the States should remain completely free to conclude special agreements only to the extent to which, or on the points on which, such agreements appear desirable to them in the light of circumstances. Poland, on the other hand, thinks it desirable that the Recommendation should contain a standard bilateral agreement (" standard agreement ") which would include all the points enumerated in this paragraph.

With regard to point (i) relating to social insurance the Netherlands, in replying in the affirmative, adds that it would be desirable as far as possible, to urge Member States to ratify Convention

[1] It is true that the Egyptian reply is not quite clear on this point. The Egyptian Government considers, in the first place, that it would be sufficient to bring the suggested details of special agreements by circular to the notice of all States Members of the Organisation but it adds that States wishing to conclude bilateral treaties will select the " recommendations " which suit them and that " most of the principles mentioned under heading VI are likely to form part of any Convention or Recommendation adopted ".

No. 48, in accordance with the point of view already expressed by it in connection with question 12 (1) (*d*). It adds that in its opinion social insurance questions should not be dealt with by regulations concerning migration but in special Conventions concerning social insurance.

Question 18 in the form in which it was drafted in the Questionnaire aimed at the adoption of a Recommendation and in fact no reply suggests the form of a Draft Convention for this subject. The Office has therefore prepared a text in the form of a Recommendation. This text has been drafted in such a way as to show clearly that its object is not to urge States in all cases to conclude special agreements dealing with all the points mentioned but to invite them to co-operate by means of such agreements when the volume of migration movements makes such co-operation specially desirable and to draw their attention to the questions on which such agreements would be particularly useful. On the other hand, it is specified that the agreements recommended should aim more particularly at ensuring the most effective application of the provisions of the proposed Draft Convention and Recommendation on the recruitment, placing and conditions of labour of migrants for employment which are submitted for consideration.

Co-operation Procedure

Question 19

Finally, the Governments were asked to express an opinion on the desirability of certain procedures which, apart from or in addition to agreements properly so-called, might be used as a method of direct co-operation with regard to the recruitment, placing and treatment of migrant workers.

No Government replies in the negative but Egypt and Switzerland repeat the remarks which they made in connection with the preceding question. The French Government makes a certain number of observations from which it is clear that while this Government considers that the subjects mentioned in question 19 could not be dealt with in the form of definite obligations prescribed by a Convention, it is nevertheless of opinion that they might be included in a Recommendation drafted on very general lines. Norway considers that the scope of the mutual agreements should be determined in each individual case.

The second paragraph of the question included a list of points concerning the value of which Governments were asked to express their views in the event of a State desiring to apply methods of direct co-operation with another State. Very few observations are made on the various points of this paragraph.

No objection is made to point (*a*), which referred to the establishment of standard forms of application and standard contracts. With regard to point (*b*) Spain considers that the quotas of workers should be fixed for one year in advance and for the different classes

of workers. On the other hand, the Netherlands' reply is in the negative, while France draws attention to the danger of a stipulation under which in a period of economic uncertainty the size of quotas and the composition of these quotas in respect of age or sex would be fixed for a whole year or even for a season. No observation is made on point (*c*) concerning the recruitment in one country and the protection of the interests of the migrant workers in the other. With regard to point (*d*) Spain considers that the periodical meetings of a mixed committee might be somewhat difficult to arrange and that this idea might be abandoned if special agreements were concluded to regulate all such matters in a detailed manner. France considers that the periodical meeting of a mixed committee is a question of practical convenience in respect of which the States concerned must retain their full freedom of action. As in the case of question 18 and for the same reasons the text which the Office has prepared on question 19 is in the form of a Recommendation. In order to take account of the observations formulated in connection with the question as a whole or certain particular points, the Office draft states that the methods of co-operation referred to are brought to the attention of the Governments, so that they may employ them in so far as circumstances render these methods both possible and useful. On the other hand, the drafting of point (*b*) is slightly different from that adopted in the Questionnaire and in addition to a recommendation in favour of fixing quotas in advance the idea of possible adjustments in the course of the year or season of quotas previously decided upon has been added in accordance with the practice in certain countries which was referred to in the Grey Report (pp. 164-165).

CHAPTER III

CONCLUSIONS AND COMMENTARY UPON A PROPOSED DRAFT CONVENTION AND TWO DRAFT RECOMMENDATIONS

The views expressed by Governments in their replies to the Questionnaire have been briefly summarised in the previous chapter, and certain conclusions have been drawn. It now remains to comment upon the texts which the Office submits for the consideration of the Conference.

A majority of the Governments which have replied to the Questionnaire are in favour of the adoption of a Draft Convention supplemented by one or more Recommendations; in nine of the replies more or less precise indications are given as to the points which might be included in a Draft Convention and those which might be included in a Recommendation, while three others simply state that the Draft Convention should deal with questions of principle and the Recommendations with other questions. The Office has, therefore, prepared three texts, a proposed Draft Convention and two draft Recommendations, based on the detailed replies of the Governments to the Questionnaire. When there are contradictory proposals from the Governments, the Office has borne in mind that questions of principle and subjects of a general character should be included, whenever possible, in the Draft Convention and that a Recommendation is a more desirable form for provisions relating to the application of principles or which can be applied only in special circumstances, such provisions not being suitable for the undertaking of a rigid obligation.

The Draft Convention deals with propaganda and information, the persons and bodies that may engage in recruitment, introduction and placing operations and equality of treatment; the first Recommendation with certain aspects of these questions and other matters on which the Conference may wish to recommend certain measures for inclusion in national laws or regulations or in some cases in bilateral agreements; and the second with subjects which the Conference may specially wish to suggest should be dealt with by co-operation between the States directly concerned.

A. — Proposed Draft Convention

1. *Information and Assistance*

This section of the proposed Draft Convention applies to migrant workers in general, and is not confined to those who are " recruited " within the meaning of Article 3.

Article 1

This Article deals with certain undesirable forms of propaganda relating to emigration or immigration which may be harmful to migrant workers and to the interests of the countries concerned. *It is clear that such propaganda has particularly bad effects if* it is misleading, as that is likely to result in very serious hardship for the migrants, who may travel a very long distance from their homes only to find that the promises made to them before their departure are not fulfilled. It is, therefore, proposed in the first place that Governments should undertake to enact and enforce penalties for the repression of such propaganda.

This, however, is not sufficient by itself. It may often be impossible to tell whether propaganda is misleading or not until the migrants have actually arrived in the immigration country and, moreover, propaganda may sometimes be harmful without being misleading. Certain countries have adopted measures for the regulation and supervision of propaganda the scope and nature of which necessarily differ according to circumstances and needs, varying from the prohibition of certain forms of propaganda to requiring an authorisation in advance for any propaganda concerning emigration or immigration. Such measures are effective, however, only if suitable penalties are imposed when the measures are not complied with. The second obligation, therefore, which it is proposed Governments should undertake is that of enacting and enforcing penalties for the repression of any propaganda which is contrary to national laws or regulations.

The second paragraph of Article 1 follows logically from the preceding paragraph, and specifies that Governments shall exercise *supervision over advertisements, posters, pamphlets and other* forms of publicity relating to employment in one country offered to persons in another country. The conditions under which this supervision shall be carried out are left to be determined by national laws or regulations.'

Article 2

It is not sufficient, however, to take measures of a negative character against undesirable forms of propaganda. It is also necessary that an adequate service be maintained to supply information and give assistance to those who are proposing to migrate. Article 2 deals with this point. In paragraph 1 the principle is

laid down that such a service should be maintained. Paragraph 2 states that the service shall be conducted either by the public authorities or by voluntary organisations approved for the purpose by the authorities and subject to their supervision, this rather strict control being considered necessary in order to avoid abuses. In view of the replies given by certain Governments it is not specified that the service shall be undertaken free of charge. It is thought that the really important thing is to have a service not conducted with a view to profit which may reimburse itself for expenses incurred in supplying information and giving assistance; these expenses may be appreciably higher in connection with migration than in connection with internal placing.

2. *Recruitment, Introduction and Placing*

This section of the Draft Convention, unlike the previous section, does not apply to all movements of migrant workers but only to those which involve a procedure of recruitment.

Article 3

Article 3 lays down certain principles, the application of which is considered necessary in connection with recruitment, introduction and placing operations.

Paragraph 1 gives a description of the various operations to which the Article applies. The main object of this explanation is to distinguish recruitment, introduction and placing from any operations that may be undertaken in connection with unsolicited migration, the latter being excluded from the scope of this Article. " Recruitment ", it is suggested, consists essentially of two series of operations, the first being *either* the engagement of a migrant in one country for employment with a particular employer in another country, *or*, if no particular employer is designated at the time of the recruitment, the giving of an undertaking to a migrant to provide him with employment in another country; the second series of operations consists of various arrangements connected with the first series, including the seeking for and selection of would-be migrants and the departure of the migrants when selected. " Introduction " consists of operations for ensuring or facilitating the arrival of recruited migrants in, or their admission to, a country of immigration; these operations would therefore include more particularly such arrangements as may be necessary for the transport of the recruited migrants and the accomplishment of the various formalities required. " Placing " takes place only if the worker has been recruited not for a specified employer but with a guarantee of employment. It consists of operations for the purpose of supplying an employer with the labour of recruited migrants who have already been introduced into the country of immigration.

Paragraph 2 defines the bodies and persons who may engage in the operations mentioned in paragraph 1. The bodies include, in

the first place, (*a*) public employment exchanges or other public bodies of the country in which the operations are to take place; such bodies are under full public control and would therefore be able to guarantee complete reliability in the operations they undertake without any special supervision. Other bodies authorised to engage in the operations mentioned would be (*b*) public bodies of a country other than that in which the operations take place (e.g., an official mission of an immigration country in a country of emigration or vice versa) on condition that the country in which the operations take place formally agrees to this procedure. A third kind of body would be (*c*) one established in accordance with the terms of an international instrument; this is theoretical, at present, but it is conceivable that at some future time an official body for the recruitment, introduction and placing of certain migrants such as refugees, for example, might be set up by international convention, and it would be unfortunate if the present Convention were in any way incompatible with such a development; this clause has, therefore, been inserted simply for the purpose of avoiding such a contingency arising. It does not in itself create any new obligation, as the object of Article 3 is merely to oblige the States not to grant to persons or bodies other than those mentioned the right to undertake recruitment, introduction and placing operations, without imposing any obligation to grant this right to all of them.

The various operations may also be undertaken by (*d*) the employer himself or a person in his service and acting on his behalf, or by (*e*) private employment agencies not conducted with a view to profit. It has not been thought necessary to give a definition of such agencies, as was done in the Questionnaire, as definitions already appear in the Fee-Charging Employment Agencies Convention, 1933 (No. 34).

Paragraphs 3 and 4 provide for certain measures of supervision which Governments would undertake to apply to an employer or his agent and to private employment agencies. They prescribe that the authorities of the country in which the recruitment, introduction or placing takes place shall prohibit such persons or bodies to undertake such operations unless furnished with an authorisation issued by those authorities and shall supervise their activities, the object being to ensure that the operations in question are carried on without detriment to the migrants or to the interests of the countries concerned.

Nothing in this Article, of course, would prevent the conclusion of agreements concerning such authorisations and supervision by countries of emigration and immigration.

3. *Equality of Treatment*

ARTICLE 4

This Article, like Articles 1 and 2, applies to all foreign workers and not only to recruited migrants, subject only to the qualifica-

tions mentioned in the text of the Article itself. There are two main reasons for including a provision on equality of treatment. One is the need for protecting the migrant workers against exploitation and possible hardship, and the other is the importance of safeguarding the workers of the country of immigration against unfair competition due, for example, to immigrants' accepting inferior conditions of work, lower wages, etc.

The proposed Article provides in the first paragraph that in respect of specified subjects each Member of the Organisation which ratifies the Convention undertakes, subject to reciprocity as defined in paragraph 3 of the Article, to apply to foreigners treatment not less favourable than that which it applies to its own nationals. Two remarks may be made here. Firstly, it is to be noticed that the Article is based on the principle of reciprocity, which is in accordance with the desires of most of the Governments which replied to the Questionnaire. Secondly, Governments would undertake, if the Article is adopted, to apply treatment not less favourable than that which they apply to their own nationals; that is a wording suggested by certain Governments and seems to embody the idea which most Governments have in mind when they speak of equality of treatment, which is not intended to exclude equivalent treatment which is not identical and even, in certain exceptional circumstances, a more favourable treatment than that granted to nationals. The Draft Convention cannot, of course, deal with these exceptional cases.

The subjects in respect of which this treatment is to be applied are practically the same as those mentioned in question 12 (1) (*a*), (*b*), (*e*) and (*f*) of the Questionnaire. Clause (*a*) covers two subjects. The first concerns conditions of work and, more particularly, remuneration; equality of treatment in this respect is as much in the interests of the workers of the immigration country as of the migrants. The second concerns the right to be a member of a trade union, and this would also appear to be in the interests of immigrants and nationals alike. The wording of clause (*a*) is intended to meet a difficulty which is mentioned by certain Governments in their replies, namely, that in connection with remuneration and the right to join a trade union, the Governments have not always complete control. There may, for instance, be no general legislation on the subject of remuneration, which may be dealt with exclusively or mainly by employers, often in negotiation with the trade unions. Similarly, the right to join a trade union is normally within the exclusive competence of the trade unions themselves. What the Article says is that not less favourable treatment shall be applied to foreigners only in so far as the matters in question are regulated by law or regulations or are subject to the control of administrative authorities, for example in virtue of bilateral agreements or in supervising contracts of employment for migrants.

Clauses (*b*) and (*c*) cover two subjects to which the limitation just referred to does not apply. The first concerns special employ-

ment taxes, dues or contributions whether charged to the worker or to his employer, as the migrant worker might otherwise be placed at a serious disadvantage as compared with nationals as a result of these payments. The second concerns legal proceedings relating to contracts of employment which, it may be recalled, was raised in the Conference Committee last year by the representative of the Chinese workers, and is of special importance in certain countries.

Paragraph 2 of the Article deals with the question of admission to employment. It refers only to foreigners authorised to reside in a country with a view to employment and the members of their families authorised to accompany or join them, and it is based, like the preceding paragraph, on the principle of reciprocity. Such persons would, under the Article as drafted, be entitled to employment in the same conditions as nationals, with two important exceptions. The principle of equality of treatment would not apply to persons whose admission to the country or permit to reside there for employment was accompanied by precise written stipulations concerning the employment for which the admission or permit were granted and the period at the end of which they must leave the country. It seems clear that any workers who are allowed to enter or reside in a country on certain precise conditions, whether in virtue of a contract of employment or otherwise, cannot subsequently claim the right to stay in the country when the conditions are no longer fulfilled and to enter any employment which may be offered to them. Permits to enter or reside in a country for employment are frequently given for a specified purpose and for a limited period of time, and the obligation which would be undertaken in virtue of the proposed Article would not interfere with that system. There is a second exception to which it is probable no objection will be raised, namely, that foreigners, even if they are allowed to enter or reside in the country without specified conditions, shall not have the right to employment in a public administration or in an undertaking or area in which for reasons of national security nationals alone are admitted to employment.

Paragraph 3 defines what is meant by reciprocity. Clearly, as between two Members both of which have ratified the proposed Convention, reciprocal treatment would be assured without any further action. It is essential that this should be stated but it is not enough, for the replies to the Questionnaire show that Governments were not satisfied with that definition alone. Reciprocity is, therefore, further defined in the Office text as existing between a Member which is bound by the Convention and any other State with which it has concluded a reciprocity agreement on the particular subject concerned.

The question of the treatment of foreigners in respect of social insurance, which was also raised in the Questionnaire, is dealt with in a Recommendation.

4. *Scope*

ARTICLE 5

Finally, there is an Article indicating certain classes of persons to whom the Draft Convention does not apply, namely, migrants within a single country or between the territories of a single State, frontier workers, seamen and indigenous workers. The definition of frontier workers is the same as that used in several Conventions on social insurance.

B. — Draft Recommendation concerning the Recruitment, Placing and Conditions of Labour of Migrants for Employment

1. *Definitions*

PARAGRAPH 1

Paragraph 1 repeats the definitions of recruitment, introduction and placing contained in Article 3 of the Draft Convention. The various classes of persons not covered by the proposed Draft Convention are not covered either by the two draft Recommendations, so that the three texts cover exactly the same classes of migrant workers, including salaried employees and professional workers.

2. *Information and Assistance*

As in the proposed Draft Convention this section of the draft Recommendation refers to all migrant workers and is not confined to recruited migrants.

PARAGRAPH 2

Article 2 of the proposed Draft Convention imposes an obligation on Governments to provide for a service conducted either by the public authorities or, under certain conditions, by voluntary organisations not conducted with a view to profit, to supply information and give assistance to migrant workers. There are certain methods of applying this principle which the Conference may wish to recommend to the Governments.

What, for example, should the duties of this service be ? The first task is clearly that of supplying information and advice to workers and their families on various matters relating to emigration, immigration, employment and living conditions in the place of destination, return to the country of origin, and, generally speaking,

any other question which may be of interest to them in their capacity as migrants. It would be useless, however, to give this information and advice in a language which the migrants do not understand. This may seem obvious, but it must be borne in mind that this point is of particular importance in the immigration countries, where migrants are of different nationalities, and also in certain emigration countries such as China and India, for example, where different languages or dialects are spoken in different parts of the same country. It may not always be practicable to give information and advice in the actual languages or dialects normally spoken by the migrants, but it is essential that it shall in any case be given in a language which the migrants can understand.

The second task which it is suggested should be undertaken by the information service is that of providing facilities for workers and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with their departure, journey, admission into the country of destination, residence there, and, should the case arise, return to the country of origin. This is a particularly important matter, as the administrative formalities and the various other steps that have to be taken by workers in connection with their migration are usually complicated and difficult to understand except by those who are accustomed to dealing with them. This function, therefore, is essential for the adequate protection of migrant workers.

Paragraph 3

Numerous complaints have been made at different times to the effect that new laws or regulations are put into operation so rapidly that it is impossible to notify intending migrants of the changes in time to enable them to alter their arrangements. It is clear, for example, that a considerable period must elapse between the moment when the migrant first decides to migrate to a particular place and the moment when, having settled his personal affairs and fulfilled all the formalities required, he actually arrives in the country of destination. Any change in the laws or regulations which renders his immigration impossible or seriously modifies the conditions on which he can be admitted to that country, or to employment there, is liable to create great hardship. It is therefore suggested that the Conference should recommend Governments to leave a reasonable interval whenever possible between the publication and the coming into force of any modification of the conditions on which emigration or immigration, or the employment of foreign workers, is permitted. Nothing is said as to what is a reasonable interval, for this naturally varies greatly according to circumstances. An interval which would be reasonable in the case of migration from one country to an adjoining country would clearly be most unreasonable in the case of migration from Europe to an overseas country. Each Government must therefore interpret this expression with due regard to all the circumstances.

Paragraph 4

It is also of importance that full information concerning the changes referred to in the preceding paragraph be given to the migrants, and it is therefore suggested that provision be made for the principal measures, or, if the actual text be too long and complicated, of notices relating to those measures, to be displayed at the main places of departure, transit and arrival. It is of course essential that this information be made available as far as possible in a language known to the migrant workers, and, as it may be impossible to issue this material in every language or dialect spoken by workers who may pass through such places, it is proposed that the display of the measures or notices in question be made in the languages most commonly known to them.

3. *Recruitment, Introduction and Placing*

With the exception of paragraphs 9 (1), to some extent 9 (3), and 10, this section of the draft Recommendation applies only to recruited migrant workers.

Paragraph 5

When recruitment, introduction and placing operations as defined in the Draft Convention are undertaken, the first step is normally for an employer in the country of immigration to make an application for the recruitment and introduction of workers of another country. Some guarantee is necessary, however, that the application is justified from the point of view of the employment situation both in the countries of emigration and immigration, and that it takes full account of the interests of all parties concerned. It is suggested that, for this purpose, such applications should be submitted in advance for examination and endorsement by the competent authorities of the country concerned. If this were to be done in every case of recruitment, even when single workers are applied for in countries where migration movements are small, it would impose a heavy burden on the authorities, and the result would hardly justify the expenditure of time and money involved. It is therefore proposed that applications should be submitted for examination and endorsement only when the migration movements are sufficiently large to justify such action.

In a second sub-paragraph the Conference is asked to recommend that before authorising any migrant workers to be brought to the immigration country, the authorities of that country should ascertain whether there are no foreign workers already available to do the work in question. Otherwise there is a chance that foreign workers quite capable of doing the work required will be repatriated at the very moment when fresh immigrants are brought in, thus causing unnecessary hardship to the foreign workers repatriated and unnecessary expense to all parties concerned.

Paragraph 6

The next point to be considered concerns the bodies and persons authorised to undertake recruitment, introduction and placing operations. The general principles are laid down in the proposed Draft Convention, but there are certain subsidiary questions which it seems desirable to mention in the Recommendation.

Article 3 of the proposed Draft Convention provides that an employer or his representative, and private employment agencies, require an authorisation from the authorities of the country in which they are operating. Such an authorisation will necessarily be granted only on certain conditions. It does not seem possible for the Conference to make any recommendation as to the actual conditions to be imposed, as those conditions will vary according to the circumstances prevailing in each country, but it seems desirable that the Conference should suggest that whatever conditions are imposed may be determined in one of two ways, either by the national laws or regulations or by bilateral agreement between the countries of emigration and immigration concerned. This is the first time that the important question of bilateral agreements is mentioned in the draft Recommendation; they are dealt with in greater detail in the second draft Recommendation.

It is quite possible that, in spite of the conditions laid down for the authorisation and of the supervision exercised by the State on whose territory the operations are carried out, faults may be committed which cause serious hardship to migrant workers. The Conference is therefore asked to recommend that the persons or bodies in possession of an authorisation should provide guarantees, which might take the form of a deposit, for the payment of compensation in the case of any damage suffered by a migrant worker as the result of a fault committed by them.

Paragraph 7

This paragraph recommends that any intermediary who undertakes the recruitment, introduction or placing of migrant workers on behalf of an employer should be required to obtain a written warrant from the employer or some other document proving that he really is acting on the employer's behalf. The reference to documents other than the written warrant has been inserted because, as pointed out by the French Government in its reply to the Questionnaire, the intermediary may be in possession of a contract of employment or an application to introduce workers signed by the employer, and such a document would suffice without a written warrant being necessary.

It is proposed that the document, whatever it is, should be drawn up in or translated into the official language of the country of emigration; in this respect there is a departure from the terms of the Questionnaire, which asked in question 7 (2) whether the document should be drawn up in or translated into the languages or dialects of the migrant workers. As pointed out, however, by

certain Governments, the document in question is normally required for presentation not to the migrant workers but to the authorities of the State in which the operations are to be carried out, who must satisfy themselves that any intermediary presenting himself is really what he pretends to be. For this purpose it is sufficient that the document should be in the official language of the country in question. So far as the migrant workers are concerned it is not the warrant but the contract of employment which gives information on the conditions promised. The question of the language in which this contract should be drawn up is dealt with in paragraph 14.

Paragraph 7 (2) deals with the contents of the document, and here the words of the Questionnaire have been strictly adhered to. It is proposed that the Conference might recommend that it should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake, and concerning the work offered, including the terms of payment.

Paragraph 8

We come now to the expenditure incurred in connection with recruitment, introduction (including maintenance during the journey), placing, repatriation and other associated operations. Two questions are dealt with in the draft Recommendation, concerning respectively the fixing of maximum scales and the extent to which the migrant worker may be obliged to contribute to this expenditure.

It is suggested that each country should fix maximum scales for the expenditure that may be charged to the migrant worker or to his employer. This is a guarantee against a form of exploitation with which recruiters have often been reproached since the world war.

In sub-paragraph (2), however, the Conference is asked to recommend that as a general rule the expenditure in question should not be borne by the worker. It is necessary, however, to consider the case in which the employer, after having paid the expenses concerned, is entitled to deduct the whole or a part of the amount from the workers' wages during an initial period, either to reimburse himself, in so far as the expenditure is chargeable to the worker, or as a guarantee that the contract will be carried out, if the expenditure is chargeable to the employer. In either case precautions are necessary to ensure that the deductions are reasonable. It is for this purpose that the Office proposes that such deductions should be limited by law or regulations or by bilateral agreements.

Paragraph 9

This paragraph is divided into three parts.

The first part recommends that migrants should, as far as possible, be examined before their departure by a representative

of the immigration country, whose duty it would be to satisfy himself that they are eligible for admission into that country. It would seem that this recommendation should apply to all migrant workers, and not merely to recruited migrants. The object of this recommendation is to prevent the great hardship which migrant workers suffer if they arrive in a country of immigration only to find that they cannot be admitted because they fail to comply with some regulation or other. It is very important that this should be determined before departure from the country of emigration. Some Governments pointed out that an examination of this kind would necessitate arrangements on the part of the immigration countries which it would be difficult to make unless the volume of migration were considerable. In order to take this objection into account, the words " as far as possible " have been added.

The second part of this paragraph recommends that, when recruitment takes place on a sufficiently large scale to be considered by the law or regulations of the emigration country as collective recruitment, an expert official of that country should be present. The object of this is to ensure that the recruitment takes place in the best possible conditions, the official of the emigration country being able, while leaving to the recruiter the responsibility of selecting the workers on occupational grounds, to take note of the conditions from the point of view of the interests of the migrant workers and the country of emigration. A measure of this kind would appear to be impracticable and indeed hardly necessary when only a few workers are being recruited, but when the numbers are considerable such a measure would seem to be very desirable.

The third part of the paragraph recommends that the examination and recruitment should, as far as possible, be undertaken close to the worker's home. The purpose of this is to avoid long journeys by would-be emigrants to the place where these operations take place, involving a big expenditure of time and money which the workers can ill afford.

Paragraph 10

This paragraph applies to the families of migrant workers, whether the latter have been recruited or not. It aims mainly at facilitating the union or reunion of families and preventing the distressing separation of families which has often taken place when the breadwinner went ahead to make a new home and was then unable to bring his family to the country of immigration owing either to restrictions of various kinds or to the heavy expenditure involved.

It is therefore suggested that the Conference should recommend (*a*) priority for members of a migrant's family in the granting of permission to leave the emigration country and to enter and reside in the immigration country, and (*b*) a simplification of the adminis-

trative formalities and a reduction in the payments required either for leaving the emigration country or for entering and residing in the immigration country. When this question was discussed in the Conference Committee last year, several delegates said that a provision of this kind should include a clear definition of the members of the family entitled to these privileges, and in the replies to the Questionnaire suggestions for such a definition were made. These suggestions have been followed in the second sub-paragraph, which provides that the persons to be included in the family for the above purpose shall be limited to the migrant's wife and minor children and other persons dependent upon him.

Paragraph 11

This paragraph hardly needs any explanation. Recruited migrant workers must necessarily take personal effects, and frequently tools as well, with them, and it is suggested that such personal effects and tools should be freed from liability to customs duty.

4. *Conditions of Employment*

The first question to be considered under this heading is equality of treatment. The principle of equality has been dealt with in the proposed Draft Convention, but there are two points which the Office considers might be included in a Recommendation.

Paragraph 12

The proposed Article on equality of treatment in the Draft Convention provides for the application of this principle to foreign workers on a basis of reciprocity in accordance with the indications furnished by a majority of the Governments. It would appear desirable, however, that equality of treatment be applied whenever possible to all foreign workers, especially as in many cases such equality is quite as much in the interest of the immigration country and its workers as in that of the immigrants. Moreover, several Governments in their replies expressed a preference for this solution. It has therefore been thought opportune to include in the draft Recommendation a paragraph recommending that equality of treatment, as laid down in Article 4 of the Convention, should, as far as possible, be extended to all foreign workers.

Paragraph 13

This paragraph concerns the application of equality of treatment in respect of social insurance. This problem is already regulated internationally in Conventions on the various branches of social

insurance adopted by the Conference at previous sessions [1]. Members of the Organisation which have ratified these Conventions are, of course, bound by their provisions, and in their case there is no need for any further action by the Conference by way of a Recommendation. In some cases, however, Members have not ratified the Conventions, not because of any objection to the provisions concerning the treatment of foreigners, but because of other matters dealt with in them. It has therefore been thought desirable to include a paragraph in the present draft Recommendation urging Members which have not ratified these Conventions at least to apply the provisions concerning the treatment of foreigners.

Paragraph 14

In connection with the recruitment of migrant workers a contract of employment is frequently signed by the employer and the worker before the latter leaves the emigration country. Such a contract is usually based on an application for the introduction or recruitment of migrant workers which the employer has previously made to the authorities of the emigration or immigration country concerned and which is the subject of paragraph 5 of the present draft Recommendation. The Conference last year did not consider that a question should be asked with regard to the possibility of making such contracts compulsory and consequently no recommendation on that point is suggested. But the Conference did attach importance to specifying certain clauses which, in the event of a contract being concluded in the circumstances mentioned, should in all cases be inserted in such a contract.

The first question dealt with is the language in which the contract should be drawn up or into which it should be translated, and it is suggested that it should necessarily be in a language which the worker understands, as it is essential that the worker should know exactly what conditions he is agreeing to.

We then come to an enumeration of the points which it is thought should in all cases be included in any contract of employment for migrants.

The list contained in this paragraph is not exhaustive. There are certain clauses which are always included and which do not need mentioning; clauses specifying the wages to be paid are of

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[1] The Conventions in question are:

No. 24: Sickness Insurance (Industry, etc.);
No. 25: Sickness Insurance (Agriculture);
No. 35: Old-Age Insurance (Industry, etc.);
No. 36: Old-Age Insurance (Agriculture);
No. 37: Invalidity Insurance (Industry, etc.);
No. 38: Invalidity Insurance (Agriculture);
No. 39: Survivors' Insurance (Industry, etc.);
No. 40: Survivors' Insurance (Agriculture);
No. 48: Maintenance of Migrants' Pension Rights.

this character and the words "in addition to any other clauses" meet the suggestions of certain Governments which raised this matter.

The first point concerns the duration of the contract, and in accordance with a suggestion made by the Polish Government, this has been elaborated in order to make the meaning perfectly clear. Thus it seems obvious that if the duration of the contract is mentioned the method of renewal, if provision for renewal is made, should also be stated. Moreover, there are cases in which a contract is concluded for an indeterminate period. In that case no duration can, of course, be specified, but the procedure for denouncing the contract and the notice that has to be given should be mentioned.

The second point, which concerns the exact date on which and place at which the migrant worker is required does not seem to require any explanation.

The third point relates to the method of meeting travelling expenses in a number of specified cases. Some doubts were expressed in the replies of the Governments as to the advisability of mentioning this for the outward journey. A large majority of the Governments, however, is in favour of this reference and moreover it seems to be clear that the worker should know exactly who is going to pay these expenses, whether it be the employer or the worker himself or partly the one and partly the other, and if the employer is to pay, whether the worker is expected to meet the expenses in the first place and claim reimbursement after arrival in the immigration country. Whatever the arrangement, it would seem desirable that it should be mentioned in the contract. On the remainder of this point there does not seem to be any difficulty.

With regard to the fourth point, it has already been proposed in paragraph 8 (2) that expenditure in respect of the recruitment and other operations inherent in the movement of recruited migrants should not as a rule be borne by the migrant worker, and that, if it is, any deductions from wages which the employer may make for this purpose should be limited by law or regulations or by bilateral agreement. But in each particular case it is important that the worker himself should know just where he stands in the matter, otherwise he does not know what pay he will receive in the immigration country, and the most convenient way of determining the exact deductions that will be made and bringing them to the attention of the migrant worker is to mention them in the contract.

The fifth point concerns the housing conditions if housing is provided or obtained by the employer. The latter phrase has been added in agreement with certain suggestions made in the replies of the Governments as it would no doubt be impracticable to include information on housing in the contract if the employer is not responsible for providing or obtaining it.

The sixth point concerns any arrangements which may be made to ensure the maintenance of the worker's family in the country of origin, especially for the purpose of preventing desertion of the

family. The wording is slightly different from that in the Questionnaire as it was thought desirable to make it quite clear that provision of this kind need not necessarily be made in every case. The important thing is that if such provision is made it should be mentioned in the contract.

Paragraph 15

Experience has shown that it is necessary, in countries where the number of immigrants is considerable, to make special arrangements for the supervision of the immigrants' conditions of employment, the object being to see not merely that any laws or regulations of a general character on this subject are being applied but that immigrant workers in particular are receiving the treatment to which they are entitled. This may well require some special qualifications among the inspectors charged with this duty, in respect of the regulations, etc. concerning foreign workers and a knowledge of languages, for example. It has not appeared possible or necessary to specify by which of the two methods mentioned in the Questionnaire the supervision should be applied, this being left entirely to the discretion of the Governments. A paragraph has therefore been drafted recommending, in countries where the number of immigrant workers is sufficiently large, a special supervision of the conditions of employment of such workers undertaken, according to circumstances, either by a special inspection service or by ordinary labour inspectors or other officials who specialise in this work.

As, however, the voluntary societies for the assistance of migrants, if any such exist in the country, have special knowledge of the needs of the migrants, it is suggested that there should, as far as possible, be co-operation between the inspection service and these societies provided, of course, that the latter are approved by the authorities.

5. *Return to the Country of Origin*

Paragraph 16

The first point studied in this section of the draft is that of a recruited migrant worker who, for a reason for which he is not responsible, does not obtain the employment for which he has been recruited. In that case two kinds of action are possible. Either he may be retained in the country of immigration and another employment found for him, or he may return to his country of origin. In the latter case, it is suggested in paragraph 16 that certain steps should be taken with regard to the payment of the costs of his return. It has not been thought possible or useful to specify the persons who should in fact be responsible for these costs; that will depend on a variety of circumstances, and, as the

Grey Report showed, the question may be settled in various ways by national regulations. What is important from the point of view of the protection of the interests of the worker, and what the paragraph recommends, is that the costs, including those relating to the return of the migrant's family, should not fall on the worker who, as stated in the beginning of the paragraph, is not responsible for the situation in which he finds himself. The consequence of this rule would be that the worker would not have to prove the fault of a third party—often a difficult matter—in order not to have to pay the costs. On the contrary, the person legally responsible for these costs would have to pay unless he could prove that the worker had been at fault.

Paragraph 17

This paragraph concerns the question of the repatriation of workers owing to their lack of means or to the unfavourable state of the employment market. It is a thorny problem which gave rise to considerable difficulty and not a little hardship during the economic depression which started in 1929. In the Questionnaire based on the discussions of the Conference last year two alternative methods of dealing with this problem by way of an Article in the proposed Draft Convention were put forward. The nature of the replies received make it impossible to propose an Article in the Draft Convention, and the paragraph suggested for the Recommendation combines the two alternatives, qualifying the first of them, which received less support from the Governments than the second one, by the words " as far as possible ".

The paragraph applies only to foreign workers who have been regularly admitted as immigrants and their families, and the first part of it recommends that a Government should, as far as possible, refrain from removing such workers from its territory for reasons connected with lack of means or the state of the employment market, unless an agreement providing for such removal has been concluded by that Government with the Government of the country of origin concerned. This is the solution which certain countries consider to be the best from a social point of view.

If, however, it is found impossible to pursue this policy, the paragraph in its second part suggests that the Conference might recommend Governments at any rate to see that certain conditions are fulfilled before removal takes place.

The first of these is that account should be taken of the length of time the workers in question have been in the country, as it is considered that those who have been longest in the country should have a greater right to remain there, and in this connection it is proposed that no worker who has been in a country of immigration for more than five years should be liable to removal for the reasons mentioned.

It is further suggested that the Government should, before removing a worker, satisfy itself that the latter has exhausted his

rights to unemployment insurance benefit. These rights will, of course, have been earned by the contributions paid by or on behalf of the worker.

The third condition proposed is that the Government should satisfy itself on a number of points with a view to enabling the worker and his family to leave the country in the best possible conditions and with a minimum of hardship.

The fourth and last condition concerns the costs of the return of the worker and his family, and with regard to this point it is suggested that Governments should satisfy themselves that these costs do not fall on the worker. This wording is different from that in the question asked last year which contained the suggestion that the costs should, in the last resort, be paid by the Government itself. The fact that no reference is made to this suggestion does not imply that the Government will not have to intervene in certain cases; it has simply been considered superfluous, as in paragraph 16, to refer to the positive solution of the problem, which each Government can decide for itself, provided that the worker himself does not have to pay the costs. It would seem to be clear that a worker who is being removed owing to lack of means or unemployment would, in any case, find it extremely difficult to pay these costs and, if he were able to do so, either wholly or in part, he would certainly arrive in his country of origin in a state of destitution.

It is also specified clearly that the Governments should satisfy themselves that the cost of the return is paid to the final destination. It has too often been the case that migrants, whose expenses have been paid to the frontier of the immigration country or to a port of disembarkation, have had the greatest difficulty in completing the journey to their country of origin and numerous complaints with regard to this have been made by the countries of transit.

Paragraph 18

The final paragraph in the draft Recommendation concerns the return to the country of origin of migrant workers or their families who have retained the nationality of that country. They are often in a state of need and therefore require urgent assistance. In many cases, however, they find that they are excluded from the scope of assistance measures because they cannot comply with certain conditions concerning previous residence and employment in the country or locality concerned. Such restrictions apply particularly to poor relief, unemployment relief and such measures as the organisation of relief works. It is suggested that in the above circumstances these restrictive conditions should be waived so that the returning migrants may be able to take advantage of any measures in operation for the assistance of unemployed and needy nationals.

Finally, there is a recommendation that such returning migrants should not have to pay customs duties on personal effects or tools.

C. — Draft Recommendation concerning Co-operation between the States concerned relating to the Recruitment, Placing and Conditions of Labour of Migrant Workers

This draft Recommendation concerns co-operation between the States concerned to settle by mutual agreement certain questions connected with the organisation of their migration movements. It consists of two paragraphs, the first dealing with agreements that may be concluded by States between which either there is a large migration movement or migration is organised on a collective basis, and the second with the establishment of regular co-operation between Member States in the solution of practical administrative problems.

Paragraph 1

Paragraph 1 recommends that the Governments of States between which migration is on a fairly considerable scale or is organised collectively should supplement their national measures for the application of the provisions of the Draft Convention and the first Recommendation, which have been explained in the earlier part of this chapter, by bilateral or plurilateral agreements.

A list of subjects on which such agreement might, according to circumstances, be concluded is added. This list must be considered as consisting merely of a number of suggestions, some or all of which may be accepted by Governments which agree to give effect to this Recommendation if adopted. Many of these subjects have already been dealt with in the two other texts submitted to the Conference. There is no inconsistency in that. In the Draft Convention and the first Recommendation the Conference will presumably indicate certain measures which it considers should be adopted either in the form of national laws or regulations or in certain cases in agreements between States. The purpose of the second Recommendation is merely to indicate those points which the Conference may more particularly wish to suggest for inclusion in such agreements in order to ensure application in the best possible way of the various principles to which the Conference agrees.

Points (*a*) and (*b*) concern information and propaganda. Point (*c*) relates to the issue of certificates and identification papers and the recognition in one country of the validity of such documents and of contracts issued or concluded in the other country. This is a matter of considerable importance to the workers, who are entitled to know that the conditions of employment to which they agree before leaving their country of origin will be legally enforced if necessary in the country of destination. Point (*d*) is concerned with the methods of recruitment, introduction and placing of migrant workers. Point (*e*) makes suggestions on the methods of preventing the separation of families and facilitating the reunion

of families which are temporarily separated, and—an important point—securing that a migrant worker who has legal obligations towards dependants in the country of origin will, in fact, carry out those obligations; the easiest way to ensure this is by agreement between the two countries concerned. Point (*f*) relates to facilities for taking money out of the country of emigration and transferring savings to that country and the adoption for both transactions of the most favourable exchange rate; this is a matter of considerable importance especially at a time when exchange restrictions are in force in a number of countries. Point (*g*) is simply a question of applying principles already included in the other texts submitted to the Conference. Point (*h*) deals with any guarantees that may be required in the case of workers who have emigrated to a country and while there are recruited for an undertaking in a colony or other dependency of that country; it is clear that certain additional guarantees may be required in such a case and this seems to be essentially a question suitable for inclusion in a bilateral agreement. Finally, in point (*i*) reference is made to the settlement of pension rights of workers who may have acquired certain rights in one country and who then emigrate to another. This provision would supplement the paragraph in the first Recommendation urging Members which have not ratified the Conventions on social insurance nevertheless to apply the provisions of those Conventions concerning the treatment of foreigners. The maintenance of pension rights is the subject of an International Convention (No. 48) but it is thought that in certain cases in which for one reason or another this Convention has not been ratified it may still be advisable for two countries to deal with the matter so far as it concerns them by bilateral agreement.

Paragraph 2

In the second paragraph it is proposed that the Conference should recommend Members, whether they conclude agreements on the matters referred to in paragraph 1 or not, to co-operate on a number of practical administrative questions which necessarily arise in the organisation of migration movements. As in paragraph 1, the questions mentioned are merely suggestions transmitted to the Governments. Unlike some of those mentioned in paragraph 1, they refer exclusively to migration in respect of which there is a definite organisation for the recruitment, introduction and placing of the workers. The points enumerated would seem to be self-explanatory and it does not seem necessary to add anything by way of explanation.

PROPOSED TEXTS

PROPOSED DRAFT CONVENTION CONCERNING THE RECRUITMENT, PLACING AND CONDITIONS OF LABOUR OF MIGRANTS FOR EMPLOYMENT

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes that it will—

(*a*) enact and enforce penalties for the repression of

(i) misleading propaganda relating to emigration or immigration, and

(ii) propaganda relating to emigration or immigration which propaganda is contrary to national laws or regulations; and

(*b*) exercise supervision over advertisements, posters, pamphlets and other forms of publicity relating to employment in one territory which is offered to persons in another territory.

Article 2

1. Each Member which ratifies this Convention undertakes to maintain, or satisfy itself that there is maintained, an adequate service to supply information and give assistance to emigrants and immigrants.

2. This service shall be conducted—

(*a*) by the public authorities; or

(*b*) by one or more voluntary organisations not conducted with a view to profit, approved for the purpose by the public authorities, and subject to the supervision of the said authorities; or

(*c*) partly by the public authorities and partly by one or more voluntary organisations fulfilling the above conditions.

AVANT-PROJET DE CONVENTION SUR LE RECRUTEMENT, LE PLACEMENT ET LES CONDITIONS DE TRAVAIL DES TRAVAILLEURS MIGRANTS

Article 1

Tout Membre de l'Organisation internationale du Travail qui ratifie la présente convention s'engage:

a) à édicter et à appliquer des sanctions pénales réprimant:

i) la propagande trompeuse concernant l'émigration ou l'immigration,

ii) la propagande concernant l'émigration ou l'immigration lorsque cette propagande contrevient à la législation nationale;

b) à exercer un contrôle sur les annonces, affiches, tracts et autres formes de publicité concernant les emplois, dans un territoire offerts à des personnes se trouvant dans un autre territoire

Article 2

1. Tout Membre qui ratifie la présente convention s'engage à avoir, ou à s'assurer qu'il existe, un service approprié d'information et d'aide aux émigrants et aux immigrants.

2. Ce service sera assuré:

a) soit par les pouvoirs publics;

b) soit par une ou plusieurs organisations privées, sans but lucratif, autorisées à cet effet par les pouvoirs publics et soumises à leur contrôle;

c) soit en partie par les pouvoirs publics et en partie par une ou plusieurs organisations privées réunissant les conditions énoncées ci-dessus.

ARTICLE 3

1. Each Member which ratifies this Convention undertakes to regulate in accordance with the provisions of this Article the following operations:

(*a*) recruitment, that is to say

(i) the engagement of a person in one territory on behalf of an employer in another territory, or

(ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory,

together with the making of any arrangements in connection with the operations mentioned in clauses (i) and (ii), including the seeking for and selection of would-be emigrants and the departure of the emigrants;

(*b*) introduction, that is to say any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of sub-paragraph (*a*); and

(*c*) placing, that is to say any operations for the purpose of supplying an employer with the labour of persons who have been introduced within the meaning of sub-paragraph (*b*).

2. The right to engage in the operations enumerated in paragraph 1 of this Article shall be restricted to—

(*a*) public employment exchanges or other public bodies of the territory in which the operations take place;

(*b*) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the Governments concerned;

(*c*) any body established in accordance with the terms of an international instrument;

(*d*) the prospective employer or a person in his service acting on his behalf; and

(*e*) private employment agencies not conducted with a view to profit.

3. The authorities of the territory where the operations enumerated in paragraph 1 above are to take place shall prohibit any employer, person in the service of an employer, or private employment agency to undertake the said operations unless furnished with an authorisation issued by the said authorities.

ARTICLE 3

1. Tout Membre qui ratifie la présente convention s'engage à réglementer conformément aux dispositions du présent article:

a) les opérations de recrutement, c'est-à-dire toutes opérations qui consistent:

i) soit à engager, dans un territoire, une personne pour le compte d'un employeur dans un autre territoire,

ii) soit à s'obliger, vis-à-vis d'une personne, dans un territoire, à lui assurer un emploi dans un autre territoire,

ainsi qu'à prendre des arrangements relatifs aux opérations visées sous i) et ii), y compris la recherche et la sélection des candidats et l'acheminement des émigrants;

b) les opérations d'introduction, c'est-à-dire toutes opérations qui consistent à assurer ou à faciliter l'arrivée ou l'admission, dans un territoire, de personnes recrutées dans les conditions énoncées à l'alinéa *a*) ci-dessus;

c) les opérations de placement, c'est-à-dire toutes opérations qui consistent à procurer à un employeur la main-d'œuvre de personnes introduites dans les conditions énoncées à l'alinéa *b*) ci-dessus.

2. Seront seuls admis à effectuer des opérations énumérées au paragraphe 1 du présent article:

a) les bureaux de placement publics ou d'autres organismes officiels du territoire où les opérations ont lieu;

b) des organismes officiels d'un territoire autre que celui où les opérations ont lieu et qui sont autorisés à effectuer de telles opérations sur ce territoire par un accord intervenu entre les gouvernements intéressés;

c) tout organisme institué conformément aux dispositions d'un instrument international;

d) l'employeur ou des personnes se trouvant à son service et agissant en son nom;

e) les bureaux de placement privés, exerçant leur activité sans fins lucratives.

3. Les autorités du territoire où les opérations énumérées au paragraphe 1 ci-dessus doivent avoir lieu exigeront que tout employeur, toute personne au service d'un employeur et tout bureau de placement privé qui entreprend les opérations en question soit muni d'une autorisation délivrée par ces autorités.

4. The authorities of the territory where the operations take place shall supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of the preceding paragraph.

ARTICLE 4

1. Each Member which ratifies this Convention undertakes that, subject to reciprocity as defined in paragraph 3 of this Article, it will apply to foreigners treatment no less favourable than that which it applies to its own nationals with respect to the following matters:

(*a*) in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities,

(i) conditions of work and more particularly remuneration, and

(ii) the right to be a member of a trade union;

(*b*) employment taxes, dues or contributions, whether payable by the person employed or by the employer; and

(*c*) legal proceedings relating to contracts of employment.

2. Foreigners authorised to reside in a territory for which this Convention is in force with a view to employment in that territory, and the members of their families authorised to accompany or join them, shall, subject to reciprocity as defined in paragraph 3 of this Article, be admitted to employment in the same conditions as nationals, except—

(*a*) in cases in which their admission to the territory or their permit to reside there for employment was accompanied by precise written stipulations concerning the employment for which the admission or permit was granted and the period at the end of which they must leave the territory; and

(*b*) in the case of employment in a public administration or an undertaking or area in which, for reasons of national security, nationals alone are admitted to employment.

3. The reciprocity referred to in paragraphs 1 and 2 of this Article shall be deemed to exist—

(*a*) as between all Members bound by this Convention; and

(*b*) as between each Member bound by this Convention and any other State with which it has concluded a reciprocity agreement relating to the matter in question.

4. Les autorités du territoire où ont lieu les opérations doivent exercer une surveillance sur l'activité des organismes ou personnes munis d'une autorisation délivrée en application du paragraphe précédent.

ARTICLE 4

1. Tout Membre qui ratifie la présente convention s'engage à accorder aux étrangers, sous réserve de la réciprocité définie au paragraphe 3 du présent article, un traitement qui ne soit pas moins favorable que celui qu'il applique à ses propres ressortissants, en ce qui concerne les matières suivantes:

a) pour autant que ces matières sont réglementées par la législation ou dépendent des autorités administratives:

i) les conditions de travail et, notamment, la rémunération des services;

ii) le droit d'affiliation aux organisations syndicales;

b) les impôts, taxes et contributions afférents au travail, qu'ils soient perçus sur le travailleur ou sur l'employeur;

c) les actions en justice concernant les contrats de travail.

2. Les étrangers autorisés à séjourner en qualité de travailleurs dans un territoire où la présente convention est en vigueur et les membres de leurs familles autorisés à les accompagner ou à les rejoindre, seront, sous réserve de la réciprocité définie au paragraphe 3 du présent article, admis à y occuper un emploi dans les mêmes conditions que les nationaux, sauf dans les cas suivants:

a) si leur admission dans le pays ou leur autorisation de séjour en qualité de travailleur ont été accompagnées de stipulations écrites précises relatives à l'emploi pour lequel l'admission ou l'autorisation précitées ont été accordées ainsi qu'au délai à l'expiration duquel ils doivent quitter le territoire;

b) s'il s'agit d'emplois dans une administration publique ou dans une entreprise ou région où, pour des raisons de sécurité nationale, les nationaux sont seuls admis.

3. La réciprocité prévue aux paragraphes 1 et 2 du présent article est considérée comme réalisée:

a) entre tous les Membres liés par la présente convention;

b) entre chaque Membre lié par la présente convention et tout autre Etat avec lequel il a conclu un accord de réciprocité sur la matière dont il s'agit.

Article 5

This Convention does not apply to—

(*a*) migration within the territory of a Member or from one territory of a Member to another territory of the same Member;

(*b*) frontier workers whose place of employment is in the territory of one State and whose place of residence is in the territory of another State;

(*c*) seamen; or

(*d*) indigenous workers as defined in Article 2 (*b*) of the Recruiting of Indigenous Workers Convention, 1936.

ARTICLE 5

La présente convention ne s'applique pas:

a) aux migrations à l'intérieur du territoire d'un Membre ou d'un territoire d'un Membre à un autre territoire du même Membre;

b) aux travailleurs frontaliers qui ont leur lieu de travail sur le territoire d'un Etat et leur lieu de résidence sur le territoire d'un autre Etat;

c) aux gens de mer;

d) aux travailleurs indigènes au sens de l'article 2, alinéa *b*) de la convention sur le recrutement des travailleurs indigènes, 1936.

DRAFT RECOMMENDATION CONCERNING THE RECRUITMENT, PLACING AND CONDITIONS OF LABOUR OF MIGRANTS FOR EMPLOYMENT

I

1. (1) For the purpose of this Recommendation—

(*a*) the term " recruitment " means—

(i) the engagement of a person in one territory on behalf of an employer in another territory, or

(ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory,

together with the making of any arrangements in connection with the operations mentioned in clauses (i) and (ii) including the seeking for and selection of would-be emigrants and the departure of the emigrants;

(*b*) the term " introduction " means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of sub-paragraph (*a*);

(*c*) the term " placing " means any operations for the purpose of supplying an employer with the labour of persons who have been introduced within the meaning of sub-paragraph (*b*).

(2) This Recommendation does not apply to—

(*a*) migration within the territory of a Member, or from one territory of a Member to another territory of the same Member;

(*b*) frontier workers whose place of employment is in the territory of one State and whose place of residence is in the territory of another State;

(*c*) seamen; or

(*d*) indigenous workers as defined in Article 2 (*b*) of the Recruiting of Indigenous Workers Convention, 1936.

PROJET DE RECOMMANDATION SUR LE RECRUTEMENT, LE PLACEMENT ET LES CONDITIONS DE TRAVAIL DES TRAVAILLEURS MIGRANTS

I

1. 1) Aux fins de la présente recommandation:

a) le terme « recrutement » désigne toutes opérations qui consistent:

i) soit à engager, dans un territoire, une personne pour le compte d'un employeur dans un autre territoire,

ii) soit à s'obliger, vis-à-vis d'une personne, dans un territoire, à lui assurer un emploi dans un autre territoire,

ainsi qu'à prendre des arrangements relatifs aux opérations visées sous i) et ii), y compris la recherche et la sélection des candidats et l'acheminement des émigrants;

b) le terme « introduction » désigne toutes opérations qui consistent à assurer ou à faciliter l'arrivée ou l'admission, dans un territoire, de personnes recrutées dans les conditions énoncées à l'alinéa *a*) ci-dessus;

c) le terme « placement » désigne toutes opérations qui consistent à procurer à un employeur la main-d'œuvre de personnes introduites dans les conditions énoncées à l'alinéa *b*) ci-dessus.

2) La présente recommandation ne s'applique pas:

a) aux migrations à l'intérieur du territoire d'un Membre ou d'un territoire d'un Membre à un autre territoire du même Membre;

b) aux travailleurs frontaliers qui ont leur lieu de travail sur le territoire d'un Etat et leur lieu de résidence sur le territoire d'un autre Etat;

c) aux gens de mer;

d) aux travailleurs indigènes au sens de l'article 2, alinéa *b*), de la convention sur le recrutement des travailleurs indigènes, 1936.

II

2. The service provided in each country to supply information and give assistance to migrant workers should have the following duties:

(*a*) to supply information to workers and their families and advise them, in their languages or dialects or at least in a language which they can understand, on matters relating to emigration, immigration, employment and living conditions in the place of destination, return to the country of origin, and, generally speaking, on any other question which may be of interest to them in their capacity as migrants;

(*b*) to provide facilities for workers and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with their departure, journey, admission into the country of destination, residence there and, should the case arise, return to the country of origin.

3. There should, whenever possible, be a reasonable interval between the publication and the coming into force of any modification of the conditions on which emigration or immigration or the employment of foreign workers is permitted in order that these conditions may be notified in good time to workers and their families preparing to emigrate.

4. Provision should be made for the display at the places of departure, transit and arrival, of the texts of the principal measures referred to in the preceding paragraph or of notices relating thereto in the languages most commonly known to migrant workers.

III

5. (1) With a view to safeguarding the interests of the migrant workers and ensuring the equilibrium of the employment market, the competent authorities of the emigration and immigration countries should, when the volume of migration justifies it, require applications for the recruitment and introduction of migrant workers to be submitted in advance for examination and endorsement.

(2) Before authorising the introduction of migrant workers the immigration country should ascertain whether there are no foreign workers already available to do the work in question.

II

2. Le service qui, dans chaque pays, est chargé d'informer et d'aider les travailleurs migrants devrait avoir pour fonctions:

a) d'informer et conseiller les travailleurs et leurs familles dans leur langue ou dialecte ou, du moins, dans une langue qu'ils puissent comprendre, relativement à l'émigration, à l'immigration, à l'emploi, aux conditions d'existence à destination, au retour dans leur pays d'origine et généralement à toute question pouvant les intéresser en leur qualité de migrants;

b) de faciliter, pour les travailleurs et leurs familles, l'accomplissement des formalités administratives et autres démarches que nécessitent leur départ, leur voyage, leur entrée et leur séjour au pays de destination ou, éventuellement, leur retour au pays d'origine.

3. Un délai raisonnable devrait, autant que possible, séparer la date de la publication de celle de l'entrée en vigueur de toutes dispositions modifiant les conditions auxquelles sont sujettes l'autorisation d'émigrer ou d'immigrer ou l'admission au travail des travailleurs étrangers, de telle sorte que ces conditions puissent être portées, en temps utile, à la connaissance des travailleurs et de leurs familles qui se préparent à émigrer.

4. Des arrangements devraient être pris aux lieux de départ, de passage ou d'arrivée des migrants en vue de l'affichage, dans les langues les plus courantes parmi les travailleurs migrants, des plus importantes dispositions visées au paragraphe précédent ou d'avis s'y rapportant.

III

5. 1) En vue de sauvegarder les intérêts des travailleurs migrants et l'équilibre du marché de l'emploi, les autorités compétentes du pays d'émigration et celles du pays d'immigration devraient, lorsque l'importance des mouvements migratoires le justifie, soumettre respectivement les demandes de recrutement ou d'introduction de travailleurs migrants à un examen et à un visa préalables.

2) Il conviendrait que le pays d'immigration, avant d'autoriser l'introduction de travailleurs migrants sur son territoire, vérifie s'il n'y a pas déjà des travailleurs étrangers capables de remplir les emplois qu'il s'agit de pourvoir.

6. (1) The conditions under which authorisations for the recruitment, introduction or placing of migrant workers are granted and maintained in force should be determined either by national laws or regulations or by agreement between the country of emigration and the country of immigration.

(2) The persons to whom or bodies to which authorisations are granted should furnish guarantees, which might take the form of a deposit for the payment of compensation in respect of any damage suffered by a migrant worker through the fault of the said persons or bodies.

7. (1) Any intermediary who undertakes the recruitment, introduction or placing of migrant workers on behalf of an employer should be required to obtain a written warrant from the employer or some other document proving that he is acting on the employer's behalf.

(2) This document should be drawn up in, or translated into, the official language of the country of emigration, and should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake and concerning the employment offered, including the terms of payment.

8. (1) It is desirable that in each country where migrant workers are recruited, introduced or placed, the competent authorities should fix maximum scales for the expenditure that may be charged to the migrant worker or to his employer in respect of the recruitment, introduction (including maintenance during the journey), placing, repatriation or any other operations connected therewith.

(2) The expenditure mentioned in the preceding sub-paragraph should not, as a rule, be borne by the migrant worker, and in all cases any deductions from wages which the employer may make for this purpose should be limited by law or regulations or by bilateral agreements.

9. (1) Migrant workers should, as far as possible, be examined before their departure from the emigration country by a representative of the immigration country, whose duty it is to satisfy himself that they are eligible for admission into that country.

(2) If recruitment takes place on a sufficiently large scale to be considered as collective recruitment under the law or regulations of the emigration country, an expert official of that country should be present.

(3) It is desirable that the examination and the recruitment to which this paragraph refers should, as far as possible, be carried out in the neighbourhood of the worker's home.

6. 1) Les conditions auxquelles sont subordonnés l'octroi et le maintien des autorisations pour le recrutement, l'introduction ou le placement de travailleurs migrants devraient être fixées soit par la législation nationale, soit par des accords entre le pays d'émigration et le pays d'immigration.

2) Les personnes ou organismes bénéficiaires des autorisations prévues à l'alinéa précédent devraient fournir des garanties, par exemple sous la forme d'un cautionnement, pour la réparation éventuelle de tout dommage causé, le cas échéant, par leur faute au travailleur migrant.

7. 1) Tout intermédiaire se livrant au recrutement, à l'introduction ou au placement de travailleurs migrants pour le compte d'un employeur devrait être tenu de se munir d'un mandat écrit de cet employeur, ou d'un autre document donnant la preuve qu'il agit pour le compte de celui-ci.

2) Ce document devrait être rédigé ou traduit dans la langue officielle du pays d'émigration et donner toutes précisions utiles sur l'employeur ainsi que sur le genre et l'importance des opérations de recrutement, d'introduction ou de placement dont l'intermédiaire est chargé et sur l'emploi offert, y compris les conditions de rémunération qui s'y appliquent.

8. 1) Il est désirable que dans chaque pays où des travailleurs migrants sont recrutés, introduits ou placés, les autorités compétentes fixent des tarifs maximums pour les frais pouvant être perçus sur le travailleur migrant ou sur son employeur, en raison du recrutement, de l'introduction (y compris l'entretien pendant le voyage), du placement, du rapatriement ou de toutes autres opérations connexes.

2) Les frais mentionnés à l'alinéa précédent ne devraient pas, en règle générale, être mis à la charge du travailleur migrant et, dans tous les cas, les retenues que l'employeur serait autorisé à opérer sur le salaire du travailleur du chef de ces frais devraient être limitées par la législation nationale, ou par accord bilatéral.

9. 1) Les travailleurs migrants devraient autant que possible être examinés avant leur départ du pays d'émigration par un représentant du pays d'immigration chargé de s'assurer qu'ils sont admissibles à destination.

2) Lorsque les opérations de recrutement revêtent une ampleur suffisante pour être considérées comme des recrutements collectifs en vertu de la législation nationale du pays d'émigration, un fonctionnaire spécialisé de ce pays devrait assister à ces opérations.

3) Il est désirable que les examens et opérations visés au présent paragraphe soient effectués, autant que possible, à proximité du domicile du travailleur.

10. (1) The members of the family of a migrant worker who desire to accompany or join him should receive special facilities for this purpose, more particularly—

(*a*) priority over other applications for permission to leave the emigration country and to enter and reside in the immigration country;

(*b*) a simplification of the administrative formalities and a reduction in the payments required either for leaving the emigration country or for entering and residing in the immigration country.

(2) For the purpose of this paragraph the members of the family of a migrant worker should be deemed to consist of his wife and minor children and of other persons dependent upon him.

11. Personal effects and necessary tools which recruited migrant workers take with them should not be liable to customs duties in the immigration country.

IV

12. It is desirable that equality of treatment for national and foreign workers, as laid down in Article 4 of the Convention, should be applied as far as possible to all foreign workers.

13. It is desirable that Members which have not ratified the International Labour Conventions relating to social insurance should grant to foreign workers and their survivors the treatment defined in the said Conventions.

14. In the event of a contract of employment being concluded between an employer, or an agent acting on his behalf, and a migrant worker before the latter leaves the emigration country, this contract should be drawn up in, or translated into, a language understood by the worker, and should, in all cases, contain, in addition to any other clauses, the following particulars:

(*a*) the duration of the contract and, if the contract is renewable, the method of renewal, or, in the case of a contract of indeterminate duration, the procedure for denunciation and the notice required;

(*b*) the exact date on which and place at which the migrant worker is required;

(*c*) the method of meeting the travelling expenses—

(i) of the worker on the outward journey;

10. 1) Les membres de la famille du travailleur migrant qui désirent l'accompagner ou le rejoindre devraient jouir, à cet effet, de facilités spéciales, et notamment:

a) d'une priorité sur les autres demandes d'autorisation de sortie du pays d'émigration ou d'entrée et de séjour dans le pays d'immigration;

b) d'une simplification des formalités administratives et d'une réduction des taxes afférentes à la sortie du pays d'émigration, à l'entrée et au séjour dans le pays d'immigration.

2) Aux fins du présent paragraphe, il y aurait lieu de comprendre au nombre des membres de la famille du travailleur migrant, l'épouse et les enfants mineurs du travailleur migrant ainsi que les autres personnes de la famille à sa charge.

11. Les outils indispensables et les effets personnels que les travailleurs migrants recrutés emportent avec eux devraient être admis au bénéfice de la franchise douanière.

IV

12. Il est désirable que l'égalité de traitement entre travailleurs nationaux et étrangers telle qu'elle est définie à l'article 4 de la Convention soit appliquée autant que possible à tous les travailleurs étrangers.

13. Il est désirable que les Membres qui n'ont pas ratifié les conventions internationales du travail sur les assurances sociales accordent aux travailleurs étrangers et à leurs ayants droit le traitement défini à leur égard dans ces conventions.

14. Dans le cas où un contrat de travail est conclu entre un employeur ou pour son compte et un travailleur migrant avant la sortie de celui-ci du pays d'émigration, ce contrat devrait être rédigé ou traduit dans une langue comprise du travailleur et devrait contenir obligatoirement, en plus de toutes autres clauses, les mentions suivantes:

a) la durée du contrat et, si le contrat est renouvelable, son mode de renouvellement, ou bien, au cas où le contrat est conclu pour une durée indéterminée, le mode et les délais de dénonciation;

b) la date et l'endroit précis auxquels le travailleur migrant doit se présenter;

c) le mode de couverture du coût du déplacement:

i) pour le travailleur à l'aller,

(ii) of the worker on the return journey, if such journey takes place on the expiry of the period for which the contract was concluded or at an earlier date in consequence of denunciation or breach of the contract not due to the fault of the worker;

(iii) of the members of the worker's family authorised to accompany him or to join him in the immigration country;

(*d*) any deductions which the employer may make from wages in virtue of the laws or regulations or of bilateral agreements referred to in paragraph 8 (2);

(*e*) the housing conditions if housing is provided or obtained by the employer;

(*f*) any arrangements which may be made to ensure the maintenance of the worker's family in the country of origin, more particularly with a view to preventing desertion of the family.

15. (1) It is desirable that in countries where the number of immigrant workers is sufficiently large, the conditions of employment of such workers should be specially supervised, such supervision being undertaken according to circumstances either by a special inspection service or by labour inspectors or other officials specialising in this work.

(2) The administrative services entrusted with the supervision referred to in the preceding sub-paragraph should co-operate as far as possible with voluntary organisations for the assistance of migrants which have been approved by the authorities.

V

16. If a recruited worker fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited, measures should be taken to ensure that the costs of his return (administrative fees, transport and maintenance charges to the final destination, including transport of household belongings) and of that of his family do not fall on the worker.

17. (1) When a foreign worker has been regularly admitted as an immigrant to the territory of a State, the latter should, as far as possible, refrain from removing such a worker or the members of his family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between this country and the country of origin.

(2) A State which feels obliged to remove from its territory, for the reasons indicated in the previous sub-paragraph, foreign

ii) pour le travailleur au retour s'effectuant soit à l'expiration normale du contrat de travail soit avant l'expiration du contrat si la résiliation ou la rupture n'est pas causée par la faute du travailleur,

iii) pour les membres de la famille du travailleur autorisés à l'accompagner ou à le rejoindre dans le pays d'immigration;

d) les retenues que l'employeur pourra opérer sur le salaire du travailleur en vertu de la législation nationale ou des accords bilatéraux visés au paragraphe 8, alinéa 2;

e) les conditions de logement lorsque celui-ci est fourni ou procuré par l'employeur;

f) tout arrangement qui aura pu être pris pour assurer l'entretien de la famille du travailleur restée au pays d'origine, spécialement à l'effet de prévenir l'abandon de la famille par le travailleur.

15. 1) Il est désirable que, dans les pays où le nombre des travailleurs immigrés est assez important, les conditions d'emploi de ces travailleurs soient l'objet d'une surveillance spéciale qui pourrait être effectuée, selon les circonstances, soit par un service spécial d'inspection, soit par des inspecteurs du travail ou d'autres fonctionnaires spécialisés pour cette tâche.

2) Les services administratifs chargés de la surveillance visée à l'alinéa précédent devraient collaborer dans la mesure du possible avec les organisations privées s'occupant d'assistance aux migrants et reconnues par les autorités.

V

16. Si le travailleur recruté n'obtient pas, pour une cause dont il n'est pas responsable, l'emploi pour lequel il a été recruté, des mesures devraient être prises pour que les frais entraînés par son retour (taxes administratives, transport et entretien jusqu'à destination finale, y compris le transport des objets du ménage) et par celui de sa famille, ne soient pas à la charge de ce travailleur.

17. 1) Lorsqu'un travailleur étranger a régulièrement immigré sur le territoire d'un Etat, ce dernier devrait s'abstenir, autant que possible, d'éloigner de son territoire ce travailleur, et, le cas échéant, les membres de sa famille, pour des raisons tirées de l'insuffisance des ressources du travailleur ou de la situation du marché de l'emploi, à moins qu'un accord soit intervenu à cet effet entre cet Etat et le pays d'origine.

2) L'Etat qui croit nécessaire, pour les raisons indiquées à l'alinéa précédent, d'éloigner de son territoire des travailleurs étrangers

workers who have been regularly admitted as immigrants or members of their family should, at all events—

(*a*) take into account the length of time the workers have been in its territory and in no case remove workers who have been there for more than five years;

(*b*) satisfy itself that the worker has exhausted his rights to unemployment insurance benefit;

(*c*) satisfy itself that the worker has been given reasonable notice so as to give him time, more particularly, to dispose of his property; that suitable arrangements have been made for the transport of the worker and his family; and that the necessary arrangements have been made to ensure that the worker and his family are treated in a humane manner;

(*d*) satisfy itself that the costs of the return of the worker and the members of his family and of the transport of their household belongings to their final destination shall not fall on the worker.

18. (1) When migrant workers or members of their families who have retained the nationality of their State of origin return there, that country should admit these persons to the benefit of any measures in force for the granting of poor relief and unemployment relief and for promoting the re-employment of the unemployed by exempting them from the obligation to comply with any condition as to previous residence or employment in the country or place.

(2) The State of origin should waive the right to impose customs duties on the personal effects or tools of such workers and members of their families.

régulièrement immigrés et, le cas échéant, des membres de leur famille, devrait de toute manière:

a) tenir compte de la durée du séjour de ces travailleurs sur son territoire et n'éloigner en aucun cas ceux qui y séjournent depuis plus de cinq ans;

b) s'assurer que le travailleur a effectivement épuisé ses droits aux indemnités de l'assurance-chômage;

c) s'assurer que le travailleur a bénéficié d'un préavis comportant un délai raisonnable lui donnant notamment la possibilité de liquider ses biens; que des arrangements convenables ont été pris pour le transport du travailleur et des membres de sa famille; et que les dispositions indispensables ont été prises pour que le travailleur et les membres de sa famille bénéficient d'un traitement humain;

d) s'assurer que les frais du retour du travailleur et des membres de sa famille ainsi que du transport de ses objets de ménage jusqu'à destination finale n'incomberont pas à ce travailleur.

18. 1) Lorsque des travailleurs migrants ou des membres de leurs familles qui sont restés ressortissants de leur Etat d'origine retournent dans celui-ci, cet Etat devrait admettre ces personnes au bénéfice des diverses mesures d'assistance aux indigents et aux chômeurs, ainsi que des mesures tendant à faciliter la remise au travail des chômeurs, en exemptant ces personnes de toute condition de séjour ou d'emploi préalables dans le pays ou la localité.

2) L'Etat d'origine devrait accorder au bénéfice des travailleurs migrants et des membres de leurs familles visés à l'alinéa précédent l'exemption des droits de douane pour leurs outils et leurs effets personnels.

DRAFT RECOMMENDATION CONCERNING CO-OPERATION BETWEEN THE STATES CONCERNED RELATING TO THE RECRUITMENT, PLACING AND CONDITIONS OF LABOUR OF MIGRANTS FOR EMPLOYMENT

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1. Members between which the volume of migration is fairly considerable or between which collective migration takes place, should supplement the measures which they take to ensure the application of the provisions of the Convention and Recommendation concerning the recruitment, placing and conditions of labour of migrants for employment by concluding bilateral or plurilateral agreements which might usefully deal, according to circumstances, with the following questions:

(*a*) the supply of information to migrant workers and exchange of information between the competent Government departments;

(*b*) the repression of illegal and misleading propaganda;

(*c*) the issue of certificates and identification papers required by migrant workers and the recognition in the territory of each of the contracting parties of the validity of such documents and of contracts of employment issued or concluded in the territory of another party;

(*d*) the methods of recruitment, introduction and placing of migrant workers;

(*e*) the methods of preventing the separation of families or the desertion of their families by migrant workers, of facilitating the reunion of families and of securing that the migrant worker will carry out any legal obligations which he may have towards dependants in the country of origin;

(*f*) any measures which may be necessary to enable migrant workers to take the money they require out of the country of emigration and to transfer their savings to the country of origin, and the adoption of the most favourable exchange rate for such money and savings;

(*g*) the repatriation of migrant workers and their families and the method of covering the cost thereof;

(*h*) the guarantees subject to which the nationals of one of the contracting States residing in the territory of another may

PROJET DE RECOMMANDATION SUR LA COLLABORATION ENTRE LES ÉTATS INTÉRESSÉS CONCERNANT LE RECRUTEMENT, LE PLACEMENT ET LES CONDITIONS DE TRAVAIL DES TRAVAILLEURS MIGRANTS

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1. Les Membres entre lesquels les mouvements migratoires revêtent une certaine importance ou un caractère collectif devraient compléter les mesures qu'ils prennent pour assurer l'application des dispositions de la convention et de la recommandation sur le recrutement, le placement et les conditions de travail des travailleurs migrants en concluant des accords bilatéraux ou plurilatéraux qui pourraient porter utilement, selon les circonstances, sur les questions suivantes:

a) l'organisation de l'information des travailleurs migrants et l'échange de renseignements entre administrations nationales compétentes;

b) la répression de la propagande illégale ou trompeuse;

c) la délivrance des certificats et pièces d'identité nécessaires aux travailleurs migrants et la reconnaissance, dans les pays co-contractants, de la validité de ces documents et des contrats de travail établis ou conclus dans l'un d'entre eux;

d) les méthodes de recrutement, d'introduction et de placement des travailleurs migrants;

e) les moyens d'éviter les séparations ou abandons de familles, de faciliter la réunion des familles ou d'assurer le respect par le travailleur migrant des obligations alimentaires qui peuvent lui incomber vis-à-vis des membres de sa famille demeurés au pays d'origine;

f) les mesures qui peuvent être nécessaires pour permettre aux travailleurs migrants de faire sortir hors du pays d'émigration les sommes dont ils ont besoin et de transférer leurs épargnes dans le pays d'origine, ainsi que l'octroi, pour ces sommes et épargnes, des tarifs de change les plus avantageux;

g) le rapatriement des travailleurs migrants et de leurs familles, ainsi que le mode de couverture des frais de ce rapatriement;

h) les garanties sous lesquelles les ressortissants d'un des Etats contractants résidant dans un autre Etat contractant pourront

be recruited for undertakings situated in non-metropolitan territories under the administration of the latter;

(*i*) the settlement of pension rights of migrant workers under old-age, invalidity and survivors' insurance schemes if the maintenance of such rights is not otherwise provided for as between the States concerned.

2. Apart from or in addition to the agreements referred to in the preceding paragraph, Members should co-operate in the practical solution of problems concerning the recruitment, placing and conditions of labour of migrant workers, more particularly by such of the following methods as may be appropriate in the circumstances:

(*a*) the drafting of standard forms of application and contract for the recruitment and introduction of migrant workers;

(*b*) the determination and revision of the quotas of workers of one country who may be introduced into the territory of another during a year or season, and, if necessary, their distribution by sex, age and occupation;

(*c*) agreement on a procedure of co-operation with a view to the recruitment and the protection of the interests of migrant workers;

(*d*) periodical meetings of a joint committee of the emigration country and the immigration country for the application or adaptation of proposals or measures for the recruitment, introduction, placing, employment, protection, and, where the case arises, repatriation of migrant workers and their families.

être recrutés pour des entreprises situées dans des territoires non métropolitains placés sous l'administration de ce dernier Etat;

i) la liquidation des droits à pension des travailleurs migrants dans l'assurance-vieillesse-invalidité-décès, au cas où la conservation de ces droits ne serait pas organisée par ailleurs entre les Etats intéressés.

2. Indépendamment des accords visés au paragraphe précédent ou en complément de tels accords, les Membres devraient coopérer pour le règlement pratique des questions que pose la réglementation du recrutement, du placement et des conditions de travail des travailleurs migrants en utilisant notamment, selon les circonstances, les méthodes suivantes:

a) l'établissement de modèles de demandes et de contrats pour le recrutement et l'introduction de travailleurs migrants;

b) la fixation et le réajustement des contingents de travailleurs d'un pays pouvant être introduits pendant une année ou une saison sur le territoire de l'autre pays, et, s'il est nécessaire, la répartition de ces contingents selon le sexe, l'âge et la profession;

c) l'établissement de procédures de collaboration en vue du recrutement et de la protection des intérêts des travailleurs migrants;

d) la réunion périodique d'une commission mixte du pays d'émigration et du pays d'immigration pour l'application ou l'adaptation des programmes ou mesures en matière de recrutement, d'introduction, de placement, d'emploi, de protection et éventuellement de rapatriement des travailleurs migrants et de leurs familles.